



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2021

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THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.1730 of 2021
and W.M.P.No.1937 of 2021

M/s.RAJSRIYA AUTOMOTIVE INDUSTRIES PVT LTD.,
71-B, SIPCOT Industrial Complex,
IV Phase, Hosur - 635 126.
Represented by its Authorised Signatory.

... Petitioner

Vs.

The Asst. Provident Fund Commissioner & Recovery Officer,
Employees' Provident Fund Organization,
Regional Office, Steel Plant Road,
Thalavaipatti, Salem - 636 302.

... Respondent

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to call for the records of the respondent in proceedings No.CB/SL/70405/Recy/KNG II/EPF CP.3/2021 dated 12.01.2021, quash the same and forebear the respondent from initiating any recovery or coercive proceedings till hearing of the stay application by the Central Government Industrial Tribunal-cum-Labour Court, Chennai, in EPFA No.79 of 2020.

For Petitioner : Mr.Haroon
for T.S.Gopalan and Co.

For Respondent : Mr.R.Thirunavukkarasu
Standing Counsel

O R D E R

Aggrieved over the order passed u/s. 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as EPF & MP Act) dated 05.03.2020 passed by the respondent, the petitioner filed an appeal before the Central Government Industrial Tribunal, Chennai. The said appeal has been entertained and pending as EPFA.No.79 of 2020.

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2. In the above said appeal, the petitioner has filed petitions to waive the condition of pre-deposit of the 75% amount demanded and a petition for stay. Both the petitions are pending before the Central Government Industrial Tribunal, Chennai, without disposal.

3. During the pendency of these petitions, the respondent has issued an order u/s. 8B to 8G of the EPF and MP Act, 1952 on 12.01.2021 and the same is under challenge before this Court.

4. Mr.R.Thirunavukkarasu, learned Standing Counsel enters appearance on behalf of the respondent.

5. Heard the learned counsel appearing on both sides.

6. Admittedly, an appeal challenging the validity of the order passed u/s. 7A of the EPF & MP Act is pending before the Appellate Tribunal. It is also true to state that the Appellate Tribunal has power to waive the pre-conditional deposit to be made by the appellant. Simultaneously, the Appellate Tribunal has power to grant stay of the order passed by the respondent. As the matter is seized of by the Appellate Tribunal, the respondent is directed not to precipitate the issue. However, considering the objects of the beneficial legislation and also the balance of convenience, the following order is passed:

(a) There shall be an order of stay of impugned proceedings issued u/s. 8B to 8G of the EPF & MP Act dated 12.01.2021 till the disposal of the waiver petition and stay petition pending before the Appellate Tribunal in EPFA.No.79 of 2020.

(b) The Appellate Tribunal is directed to dispose of the waiver petition and the stay petition filed by the petitioner as expeditiously as possible.

With the above directions, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar

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To

The Asst. Provident Fund Commissioner & Recovery Officer,
Employees' Provident Fund Organization,
Regional Office, Steel Plant Road,
Thalavaipatti, Salem - 636 302.

+1cc to M/s.T.S.Gopalan & Co, Advocate SR.4247

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