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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 8232 of 2013

and

M.P. Nos. 1 and 2 of 2013

M/s.Hong Kong Kid Leathers,
No. 14, Sargunar Salai,
Nagalgeni, Chrompet,
Chennai - 600044.

... Petitioner

-vs-

1. The Presiding Officer,
Employees' Provident Appellate Tribunal,
Scope Minar, Core II, 4th Floor,
Laxmi Nagar District Centre, Laxmi Nagar,
New Delhi - 110092.

2. The Assistant P.F. Commissioner,
Employees Provident Fund Organisation,
Regional Office, Tambaram,
Chennai - 600 044.

... Respondents

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records in A.T.A. No. 690/13/2012 and quash the order No. A.T.A.No.690(13)2012 dated 23.08.2012 passed by the First Respondent to the extent of insisting of pre deposit of Rs.4,00,000/- for considering the appeal and declare it as illegal and pass such other direction forbearing the Respondents from taking any coercive steps in any manner for the recovery of damages.

For Petitioner : No Appearance

For Respondents: R1 - Tribunal

Mr. R.Vishnu
for Mr. K.Ramu (for R2)



O R D E R

(through video conference)

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Heard Mr. R.Vishnu, Learned Counsel appearing for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. There is no representation for the Petitioner when the matter is called at 11.24 a.m. today.

3. The Petitioner filed an appeal in A.T.A.No.690(13)2012 before the Appellate Authority under Section 7-I of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the EPF Act' for short) against the Order No. TN/RO/TBM/48773/Gr.57/PDC/2012 dated 09.07.2012 passed by the Second Respondent determining the liability of the Petitioner for damages for delayed payment under Section 14-B of the EPF Act. The Appellate Authority by an order dated 22.08.2013 required the Petitioner to deposit the sum of Rs. 4,00,000/- with the Second Respondent within a week therefrom as condition for directing the parties to maintain status quo till the disposal of that appeal. The Petitioner assails the said condition imposed in that order as without authority of law in this Writ Petition.

4. It is brought to the notice of this Court by the Learned Counsel for the Second Respondent that after the filing of the Writ Petition, the Appellate Authority by order dated 08.01.2014 in A.T.A.No.690(13)2012 has passed final order in that appeal preferred by the Petitioner holding as follows:-

" In the instant case, there are no findings by the Id. Commissioner that there is any willful default on the part of the appellant in remittance of PF dues in time. Since, there is no mens rea on the part of the appellant, damages should not be levied. In these premises, it would not be appropriate to levy damages on the appellant. Even otherwise, since, the appellant is not a willful defaulter; no damages can be levied in view of the HMT Ltd. Case. In terms of the above, the impugned Order is set aside. The appeal is allowed. Copy of the order be sent to the parties. The file be consigned to the record room. "

Having regard to the subsequent events, nothing remains for further consideration in the matter.



5. In the result, the Writ Petition is disposed. Consequently, the connected miscellaneous petitions are closed. No costs.

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Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

dm

To

1. The Presiding Officer,
Employees' Provident Appellate Tribunal,
Scope Minar, Core II, 4th Floor,
Laxmi Nagar District Centre, Laxmi Nagar,
New Delhi - 110092.
2. The Assistant P.F. Commissioner,
Employees Provident Fund Organisation,
Regional Office, Tambaram,
Chennai - 600 044.

+1cc to Mr.K.Ramu, Advocate, S.R.No.55528

W.P. No. 8232 of 2013

EV(CO)
SU(09/11/2021)