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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 7462 of 2022

International Industrial Gases Limited
Vs.
Regional Provident Fund Commissioner – II/
Recovery Officer & Anr.

Mr. Anant Kumar Shaw,
Mr. Ravi Kumar Dubey
.... For the petitioner.

Mr. Shiv Chandra Prasad
... For the Provident Fund Authorities.

Pursuant to the direction given by this Court on 5th September, 2022, Mr. Prasad produces the letter dated 23rd September, 2019. Mr. Prasad submits that the said notice has been issued pursuant to the order dated 16th August, 2019. The same does not cover the demand made by the Regional Provident Fund Commissioner – II/ Recovery Officer, Regional Office, Howrah, vide notice dated 21st February, 2022/29th March, 2022, forming Annexure P-6 of the present writ petition.

Mr. Shaw appearing in support of the aforesaid application submits that his client has already challenged the order dated 16th August, 2019, which is at page 148 of the writ petition, before the Tribunal under Section 7 'I' of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the "said

Act”). The said appeal is pending adjudication. Drawing attention to this Court to the order dated 13th November, 2019, it is submitted by Mr. Shaw that the demand determined by the Provident Fund Authorities under Section 14B and 7Q by its order dated 8th March, 2016 has since been set aside by the Tribunal in Appeal No. EPF 11/2016. Notwithstanding the aforesaid, the Regional Provident Fund Commissioner – II/ Recovery Officer, Regional Office, Howrah, has raised the demand dated 21st February, 2022/29th March, 2022 for a sum of Rs.8,46,646/-. Mr. Shaw submits that the aforesaid demand covers the determination under Section 14B and 7Q which has since been set aside by the Tribunal by its order dated 13th November, 2019. The aforesaid demand is illegal and should be set aside.

Mr. Shaw further submits that for the last two years the Tribunal was not sitting and for reasons aforesaid the petitioner was denied opportunity to pray for appropriate orders before the Tribunal and the present writ application has been filed *inter alia* challenging the notice of demand dated 28th May, 2020/16th June, 2020 which arise out of order dated 16th August, 2019, before this Hon’ble Court.

Mr. Prasad in his usual fairness submits that the authorities had mistakenly raised the demand dated 21st February, 2022/29th March, 2022. Such demand on

account of determination made under Section 14B and 7Q of the said Act, has been raised by clubbing the period from December, 1988 to February, 2006 and March, 2006 to December, 2013. He submits that the aforesaid is an inadvertent error and the authorities had mistakenly included the demand, which had already been set aside by the Tribunal by order dated 13th November, 2019. He insists that the matter should be remanded back to the authorities for issuing fresh order in this regard.

I have considered the submissions made by the advocates appearing for the respective parties. As would appear from the submissions made by Mr. Prasad that the demand forming Annexure P-6 dated 21st February, 2022/29th March, 2022 is a combined demand and includes the period covered by order dated 8th March, 2016, which has been set aside, the same thus cannot be sustained in the eye of law and the same is accordingly quashed.

The petitioner has already preferred an appeal challenging the order dated 16th August, 2019. Such appeal is pending adjudication before the Tribunal. I have been informed that the Tribunal is sitting on regular basis, as such, it shall not be appropriate for this Court to consider the legality and/or validity of such order. It shall, however, be open to the petitioner to pray for appropriate orders before the Tribunal, if so advised.

With the aforesaid directions/observations made hereinabove, the writ petition, being WPA 7462 of 2022 is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary formalities.

(Raja Basu Chowdhury, J.)