

26.05.2022
Item No. SL 1
Ct. No. 08
PG

M.A.T. 838 of 2022
With
I.A. No. CAN 1 of 2022

Tapati Dutta & Ors.
Vs.
Union of India & Ors.

Mr. Arindam Jana
Mr. Akashdeep Mukherjee
Mr. Pintu Karar
Mr. Pritam Chatterjee.....for the appellants

Mr. Subhabrata Das.....for the State

Mr. S.K. Tiwari.....for the Union of India

The appellants are the writ petitioners before the learned single Judge. They are Directors of Howrah Mills Company Limited.

It is not in dispute that from time to time the said Company defaulted in making payment of provident fund contribution. On an earlier occasion, the Company had approached the writ Court by filing W.P. No. 26998(W) of 2015. By an order dated December 01, 2015, a learned single Judge had stayed all coercive actions against the Company subject to the Company depositing Rs. 50 lakhs. The appellants say that this amount was deposited. Subsequently, further amounts were also deposited

and in all, about Rs. 05 crores have been deposited on account of arrear provident fund contribution.

As on date, according to the Authorities, the provident fund dues would be in the region of Rs. 17 crores. However, the appellants question the correctness of this figure of Rs. 17 crores assessed by the provident fund authorities.

What prompted the appellants to approach the learned single Judge by way of the present proceedings is issuance of a warrant of arrest dated April 26, 2022, by the Regional Provident Fund Commissioner-II/Recovery Officer, Regional Office, Howrah against the appellants. The learned single Judge having refused to pass any interim protective order, the appellants are before us by way of this appeal.

Appearing for the appellants learned Counsel candidly submits that no employer can avoid paying the provident fund contribution in accordance with law. Howrah Mills Company Limited has entered into an internal arrangement with one Premier Digital Solutions Private Limited by way of execution of a Conversion Agreement dated July 20, 2016, whereunder Premier Digital Solutions Private Limited has agreed to take over the provident fund liabilities of Howrah Mills Company Limited. Ways and means are being worked out as to how the arrear provident

fund dues can be paid. The Company has offered its unencumbered properties for sale and liquidation of the provident fund dues. The authorities should also take steps to put up for sale the properties of the Company for realising the arrear provident fund dues.

We enquired as to how much money the appellants can immediately deposit with the provident fund authorities to show their bona fides. The learned Counsel for the appellants says that Rs. 01 crore may be possible. In our view, that is too meagre an amount.

Subject to the appellants depositing an amount of Rs. 02 crores with the provident fund authorities within three weeks from date, the warrant of arrest impugned in this proceeding shall remain stayed for the time being. There shall be unconditional stay of operation of the warrant of arrest for a period of three weeks from date. If the sum of Rs. 2 crores is deposited by the appellants with the provident fund authorities during that period, the order of stay of warrant of arrest shall continue till the disposal of the writ petition by the learned Single Judge. No useful purpose will be served by keeping the appeal pending.

The provident fund authorities should take steps for selling the properties of Howrah Mills

Companies Limited for realizing the arrear provident fund dues.

The respondents in the writ petition will be at liberty to file affidavit in opposition within two weeks after the reopening of Court. The writ petitioners will be at liberty to file their reply within a week thereafter. The parties will be at liberty to mention the matter before the learned single Judge for early hearing to the extent that the business of the Court may permit.

The appeal and the connected application are accordingly disposed of.

Since no affidavit has been invited, the allegations made in the stay petition are deemed not to be admitted by the respondents.

All the respondents including the respondent nos. 5,6 and 7 shall act on the server copy of this order.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously after complying with all necessary legal formalities.

(Ananya Bandyopadhyay, J.) (Arijit Banerjee, J.)