

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 12257 OF 2012

M/S Aditya Steel Industries Ltd.

..... *Petitioner*
Mr. N.K.Mishra, Sr. Adv.

-versus-

***Employees Provident Fund
Organization & others.***

..... *Opposite Parties*
Mr. S.S.Mohanty, Adv.

**CORAM:
JUSTICE V. NARASINGH**

**ORDER
07.07.2022**

Order No.
03.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. N.K.Mishra, Sr. Counsel for the petitioner and Mr. S.S.Mohanty, learned counsel for the opposite parties-Employees Provident Fund Organization.
3. Being aggrieved by the order dated 11.05.2012 passed by the Assistant Provident Fund Commissioner, Bhubaneswar, communicated by letter dated 22.05.2012 at Annexure-5 in purported exercise of his power under Section 7-A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'Act'), the present writ petition has been filed.

4. Mr. Mishra, learned Sr. Counsel for the petitioner relying on the communication dated 22.05.2012 at Annexure-5 by which the determination of dues under Section 7-A of the Act, submits though it is an order under Section 7-A of the Act, but in fact from the heading of the order it is seen that the same been passed under Section 7-B of the Act. Hence, it is submitted that the adjudication has been done without application of mind.

5. It is also stated by Mr. Mishra, learned senior counsel with vehemence that despite his representation and notwithstanding the earlier order passed by this Court, adequate opportunity was not provided to the petitioner inasmuch as the information which is the basis for initiation of the proceeding has not been provided to the petitioner in spite of representation being made in this regard. Hence, inter alia on grounds of non-application of mind in passing the impugned order and on account of violation of principle of natural justice, jurisdiction of this Court is invoked under Article 226 of the Constitution of India

6. Mr. Mohanty learned counsel for the opposite parties organization states that there is no substance in the allegations made. The information based on which the proceeding has been initiated was given by the petitioner organization themselves, so they cannot make a grievance that they do not know on the basis of which the proceeding has been initiated. It is also stated that since the order is an appealable one, jurisdiction of this Court cannot be invoked under Article 226 of the Constitution of India in view of the act providing for statutory appeal and in this

connection the learned counsel for the Organization relies on several judgments of this Court, which are taken on record.

7. Since the dispute falls within a narrow compass, this Court feels that in the interest of justice and equity the opposite parties organization should provide the information on the basis of which proceeding under Section 7-A has been initiated and which is one of the primary grounds agitated in the present writ petition being violation of principle of natural justice, supply of such information would redress the grievance of the petitioner enabling it to effectively defend its cause.

8. Accordingly, it is directed that the opposite parties organization shall provide the information on the basis which the present 7-A proceeding has been initiated within a period of four weeks from today and on receipt of such information the petitioner shall prefer the appeal as provided under Section 7-I of the Act, within the statutory period as envisaged therein.

9. Since the petitioner has fairly prosecuted the litigation before this Court, it shall be open to the petitioner to file a petition under the appropriate section of the Limitation Act along with the statutory appeal and the same shall be considered liberally and the appeal shall be heard and disposed of on merits.

10. Keeping in view the peculiar facts and circumstances of the case and the interim order passed by this Court during pendency of the present writ petition, it is directed that no coercive action shall be taken against the petitioner till disposal of the appeal.

11. Accordingly, the writ petition stands disposed of
12. Urgent certified copy of this order be granted as per rules.

Dhal

*(V.Narasingh)
Judge*

