IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1005 OF 2022

Perfect Machine Tools Co.Ltd .. Petitioner
Versus
Union of India and anr .. Respondents

…

Mr.Neel Helekar i/b Onkar Warange for the petitioner.
Mr. G. Hariharan for respondent no.1 UOI.
Mr.Suresh Kumar for respondent no.2.

CORAM: RAVINDRA V. GHUGE, J.
DATED : 3rd FEBRUARY, 2022

P.C:-

1 This matter was heard extensively on 2/2/2022. Since the Provident Fund Appellate Tribunal is not available in any part of the State of Maharashtra that the petitioner has preferred this Writ Petition. In fact, an Appeal u/s.7-I has already been filed along with an application u/s.7-O before the Appellate Provident Fund Tribunal which is the Central Government Industrial Tribunal (for short 'CGIT') at Mumbai.

2 In the above backdrop, I called upon the learned Advocate for the petitioner to take instructions as to whether the petitioner would deposit an amount of 75% of the assessed amounts as a pre-condition for a re-hearing u/s.7A and by adding

the contractor to the said proceeding. The learned Advocate for the petitioner submits, on instructions, that the petitioner is agreeable.

3 Since nobody had represented respondent no.2, Assistant Provident Fund Commissioner (for short "APFC"), Bandra III, Mumbai, yesterday, this matter was adjourned overnight, so as to enable the learned counsel for the APFC to cause an appearance today. Shri Suresh Kumar, learned Advocate representing the APFC submits that if 75% of the amount is deposited by the petitioner with respondent no.2, a re-hearing u/s.7A by adding the contractor as a party, could be granted.

4 In view of the above, this Petition is disposed off with the following directions :-

(a) The petitioner shall deposit Rs.31,88,401/- (75% of the total amount of Rs.42,51,203/-) with respondent no.2, on or before 21/3/2022.

(b) On the condition of depositing this amount, the petitioner shall appear before respondent no.2 on 21/3/2022 at 12 noon.

(c) The amount deposited by the petitioner would be preserved separately by the APFC without adjusting the said amount towards any dues of the petitioner.

(d) On 21/3/2022, the petitioner would tender the complete address and contact numbers of the contractor, who, according to the petitioner, has paid the PF contributions for the contract labourers at issue.

(e) Thereafter, the APFC would add the contractor as a party to the proceeding u/s.7A and issue notice to the contractor.

(f) An opportunity of appearing before the APFC and tendering it's written statement along with the documents, would be granted to the contractor.

(g) If the contractor does not appear before the APFC, despite reasonable opportunity being granted, the APFC would proceed to decide the case on it's own merits u/s.7A of The Employees Provident Funds and Miscellaneous Provisions Act, 1952. However, the contention of the Principal Employer that the contractor has paid the Provident Fund contributions of the contract labourers, will be carefully considered and gone into by the APFC before drawing it's conclusions afresh u/s.7A.

(h) The pending Appeal preferred by the petitioner on24/1/2022 before the CGIT, Mumbai would stand disposed off and the petitioner shall convey to the said Tribunal through a written purshis in the said Appeal by placing a copy of this order on record and for praying that the said Appeal be disposed off.

(i) The amount deposited by the petitioner under the order of this Court would be subject to the decision of the APFC on the 7A enquiry as directed above.

(j) Needless to state, after the petitioner deposits the amount as directed, the APFC would de-freeze the bank accounts of the petitioner which have been frozen/attached earlier.

RAVINDRA V. GHUGE, J

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