IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1682 OF 2022

ALONG WITH

WRIT PETITION NO.1684 OF 2022

ALONG WITH

WRIT PETITION NO.1685 OF 2022

ALONG WITH

WRIT PETITION NO.1687 OF 2022

ALONG WITH

WRIT PETITION NO.1688 OF 2022

ALONG WITH

WRIT PETITION NO.1870 OF 2022

ALONG WITH

WRIT PETITION NO.1871 OF 2022

ALONG WITH

WRIT PETITION NO.1872 OF 2022

Krystal Integrated Services Pvt. Ltd.] … Petitioner

Vs.

The Employees Provident Fund]
Organisation & Anr.] … Respondents

…

Mr. Jamshed Cama, Senior Counsel with Mr. Avinash Jalisatgi and Mr. S.S. Shetye i/b Mr. Vaibhav U. Jagdale for the petitioner.

Mr. Suresh Kumar with Ms. Krunali Satra for the respondents.

…

CORAM : RAVINDRA V. GHUGE, J.

DATED : 21ST FEBRUARY, 2022.

P.C. :-

1. In all these matters, I have considered the strenuous submissions of Mr. Cama, the learned Senior Counsel along with Mr. Jalisatgi on behalf of the petitioner-employer and the learned standing counsel Mr. Suresh Kumar on behalf of the respondent-PF authorities.

2. A ready reference chart (3 pages) is placed on record by Mr. Cama stating therein, the various amounts involved in each of these cases under Sections 14-B and 7-Q of the Employees' Provident Fund & Miscellaneous Provisions Act, 1952 (for short, **the 1952 Act"**). All these amounts are calculated till 31/03/2017. The said chart (3 pages) is taken on record and marked as ***'X-1'*** for identification.

3. Mr. Cama submits that the appeals against the assessment under Sections 14-B and 7-Q of the 1952 Act, have been preferred before the PF Appellate Forum, CGIT-I at Mumbai. Since the

Presiding Officer is not appointed by the Central Government, the Tribunal is vacant. The charge of the Mumbai Tribunal is not with any other CGIT in the State of Maharashtra, since all Tribunals are vacant. It is in this background that these petitions have been filed in this court.

4. The total dues, as assessed by the PF authorities to the extent of Section 14-B and Section 7-Q, are an amount of Rs.5,60,00,000/- approximately. The details of the calculations are set out in X-1. Out of the said amount, an amount of Rs.2,07,43,000/- approximately, is towards Section 7-Q component, which is the interest component to be paid to the workers, when they withdraw their PF accumulations.

5. Mr. Kumar has strenuously contended that the withdrawal of accumulation is a continuous process and, as and when the employee/beneficiary withdraws his share of accumulation, the interest to be calculated is to be paid by the PF authorities. As Section 7-Q component is outstanding towards the petitioners, at the time of withdrawal of PF accumulation, the interest has been paid by the PF authorities from it's coffers.

6. It is apparent that the petitioner is without any protection, on account of the absence of the Presiding Officer. In these petitions, a prayer has been put forth that protection may be granted to the petitioner until the appeals before the CGIT-I, Mumbai are heard

and decided. Since the Presiding Officer is not available, no orders have been passed on the interim applications filed under Section 7-O of the 1952 Act.

7. The learned counsel for the PF authorities submitted that insofar as the assessment under Section 14-B is concerned, the PF Appellate Tribunal would be deciding the challenge to the said assessment. Amounts assessed under Section 7-A have been fully recovered. However, insofar as the payment of interest to the workers at the time of withdrawal of the PF accumulations is concerned, Section 7-Q would come into play and, as the PF authorities have paid the amounts from their coffers, the petitioner may be put to the condition of depositing atleast, the Section 7-Q assessed amounts.

8. It is undisputed that Section 7-A assessment has been complied with and, there is no dispute raised by the employer pending before any Forum. However, Mr. Cama submits that Section 14-B is time barred, in the light of the circular dated 28/11/1990, issued by the Central Board of Trustees. It is, therefore, as a matter of policy, intended by the Central Board of Trustees that Section 14-B cases should be finalised within a period of three years. Mr. Cama submits that if Section 14-B cases have not been finalised within the said period, the calculations under Section 7-Q would be equally time barred, rather Section 7-Q could not be invoked as the case under Section 14-B would

collapse.

9. In my view, the above submissions would be subject matter of the appeal that is pending before the CGIT-I and the same could be decided on its merits. The immediate concern as on date is, Section 7-Q component amount, as the PF authorities have already paid the interest to the workers, who have withdrawn their accumulations.

10. In view of the above, these petitions are disposed off with the following directions:

(a) An amount of Rs.1,00,00,000/- would be deposited by the petitioner with the respondent-authority, on or before 21/04/2022. The second installment of Rs.1,00,00,000/- would be deposited by the petitioner with the respondent-authority, on or before 15/06/2022.

(b) Since the petitioner is agreeable to deposit the said amount, in the light of the installments granted above, the respondent-authority would refrain from initiating coercive steps to recover the reminder amount of Rs.3,60,00,000/- (in approximation) till the appeals are decided by the CGIT-I, Mumbai.

(c) After the Presiding Officer is appointed for CGIT-I, Mumbai, the pending appeals preferred by the petitioner would be decided on their merits within a period of 60 days from the date of appearance of the petitioner on notice.

(d) All contentions of the litigating parties are left open, to be dealt with by the CGIT-I, Mumbai.

(e) In the event of any failure on the part of the petitioner in depositing the amounts as directed hereinabove, be it the default on the first installment or a default on the second installment, the ad-interim protection granted by this court till the disposal of the appeals, would stand vacated forthwith.

[RAVINDRA V. GHUGE, J.]