



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2022

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CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.Nos.4046 and 4049 of 2022
and WMP.Nos.4190 & 4194 of 2022

M/s.Modern Spinning Mills,
Represented by its Managing Director,
Mr.Saravana Kumar Govindaraj,

... Petitioner in both W.Ps.

vs.

1.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Bhavanishyanidhi Bhavan, P.B.No.3875,
Dr.Balasundaram Road,
Coimbatore - 641 018.

2.Recovery Officer,
Employees' Provident Fund Organization,
Regional Office, Coimbatore-641 018.

... Respondents in both W.Ps.

Prayer in W.P.No.4046 of 2022: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the order dated 12.02.2020 passed in E.P.F.A.No.219 of 2019 by the Employees Provident Fund Appellate Tribunal, Chennai insofar as it relates to the directions to the writ petitioner to deposit a sum of Rupees Ten Lakhs as condition for stay of the order passed by the first respondent in TN./R.O./CBE/PDC/CC24/16052 /14B Proceeding / Diary No.368/2019, levying Rs.18,06,603/- as damages under Section 14B of EPF & MP Act, 1952, and quash the same.

Prayer in W.P.No.4049 of 2022: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the order dated 12.02.2020 passed in E.P.F.A.No.219 of 2019 by the Employees Provident Fund Appellate Tribunal, Chennai insofar as it relates to the dismissal of the Appeal



challenging the impugned order in CB/CBE/PDC-II/CC-24/16052/Interest/2019 dated 23.08.2019 leaving Rs.8,74,761/- towards Interest under 7Q of EPF & MP Act, 1952 and consequently Order No.CB/CBE/PDC-II/CC.24/16052/Interest/2019 dated 23.08.2019 passed by the first respondent and quash the same.

In both W.Ps

For Petitioner : Mr.A.Deivasigamani

For Respondents : Mrs.R.Meenakshi,
Standing Counsel for EPF

COMMON ORDER

By consent, these Writ Petitions are taken up for final disposal.

2. The petitioner had preferred an appeal in E.P.F.A.No.219 of 2019 before the Central Government Industrial cum Labour Court / Employees Provident Fund Appellate Tribunal, Chennai under Section 71 of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, challenging the orders dated 23.08.2019 passed by the first respondent, ordering the petitioner to pay Rs.18,06,603/- as damages and Rs.8,74,761/- as interest. The Tribunal has passed an interim order of stay dated 12.02.2020 subject to the condition that the petitioner shall deposit a sum of Rs.10,00,000/- before the first respondent and challenging the same, the petitioner has filed the present writ petitions.

3. Mrs.R.Meenakshi, learned Standing Counsel for EPF submitted that the writ petitions are not maintainable, since the petitioner has not complied with the conditional order passed by the Tribunal and if the petitioner agrees to pay the said amount within a period of four weeks, appropriate orders may be passed by this Court.

4. The learned counsel for the petitioner also agreed that the petitioner agrees to pay the amount in compliance of the conditional interim order of stay passed by the Tribunal dated 12.02.2020, within a period of eight weeks from the date of receipt of a copy of this order.

5. It is seen that the conditional order of stay was granted by the Tribunal on 12.02.2020 in E.P.F.A.No.219/2019 and even after lapse of two years, the petitioner has not complied with the said order. Since the petitioner has agreed to pay the



amount of Rs.10,00,000/- in compliance of the conditional interim order of stay passed by the Tribunal dated 12.02.2020, the respondents may not have serious objection for giving opportunity to the petitioner to pay the said amount.

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6. In view of the above, this Court directs the petitioner to pay the amount of Rs.10,00,000/- before the first respondent, in compliance of the conditional interim order of stay granted by the Central Government Industrial Tribunal cum Labour Court, Chennai dated 12.02.2020 in E.P.F.A.No.219/2019, on or before 07.04.2022, in default, it is open to the respondents to proceed further in accordance with law. It is made clear that if the petitioner has already paid any amount, the same shall be taken into account as additional amount by the respondent.

7. W.P.No.4046 of 2022 stands disposed of with the above directions. No costs. Consequently connected miscellaneous petition is closed.

8. Insofar as W.P.No.4049 of 2022 is concerned, it is stated by the learned Standing counsel for the respondent that it is mandatory to pay interest and even the appeal itself is not maintainable. Therefore, this Court is not inclined to accept the contention of the petitioner. However, the petitioner is granted liberty to make a fresh representation to the first respondent within a period of two weeks from the date of receipt of a copy of this order and on such representation being filed, the first respondent shall pass orders on merits and in accordance with law at the earliest. No costs. Consequently, connected miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

Jvm

To

1.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Bhavanishyanidhi Bhavan, P.B.No.3875,
Dr.Balasundaram Road, Coimbatore - 641 018.



2.Recovery Officer,
Employees' Provident Fund Organization,
Regional Office, Coimbatore-641 018.

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+2cc to Mr.A.Deivasigamani, Advocate Sr.12449 and 12450
+2cc to M/s.R.Meenakshi, Advocate Sr.12451 and 12452

W.P.Nos.4046 and 4049 of 2022

gj[co]
srg 09/03/2022