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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 12631/2022, CM APPL. 38277/CM APPL. 38278/2022EXEMPTION, CM APPL. 38279/2022

M/S ZAPDOR ENGINEERING PVT. LTD. ..... Petitioner

Through: Mr. S. P. Arora, Mr. Rajiv Arora and Mr. Ashish Kr. Bhagat, Advs.

versus

ASSISTANT PF COMMISSIONER NOIDA AND ANR. Respondent

Through: Mr. Rajesh Kumar, Standing counsel with Mr.Harshit Garg, Adv.

% ***Date of Decision: 5th September, 2022***

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present writ petition has been filed challenging the order dated 8th December, 2021 passed by the learned Central Government Industrial Tribunal cum Labour Court –II, Rouse Avenue, District Court Complex Delhi (CGIT) in ATA No.2/06/2020 whereby the learned CGIT rejected the prayer of the petitioner for total waiver of the pre- deposit. However, learned CGIT reduced the amount of pre-deposit from 75% to 20%. The petitioner was directed to deposit 20% of the assessed amount within eight weeks from the date of this order towards compliance of the provisions of Section 7 (O) of the Employees Provident Fund And

Miscellaneous Provisions Act 1952 by way of FDR in the name of the Registrar CGIT, initially for a period of one year with provision for auto renewal.

2. The petitioner aggrieved of this, has filed the present writ petition. The total assessed amount is Rs.4, 87, 21, 628/-.
3. Learned counsel for the petitioner submits that an amount Rs. 89, 66, 766/- is already been deposited/recovered by the respondent.
4. Learned counsel submits that there is only a shortfall of Rs. 7,77,620/-. It has been submitted that the petitioner is in the financial crisis and the learned CGIT may be directed to admit the appeal and consider the same on merit and the condition of further deposit of Rs.7,77,620/- may be waived.
5. Learned counsel for the petitioner has relied upon the judgment of this Court in "***Teleone Consumers Product Private Limited v. Regional P.F. Comissioner I, Delhi***" in W.P.(C) No. 1423/2022.
6. Learned counsel submits that in this case also, the learned CGIT had directed to deposit 30% of the amount assessed under Section 7 A of the Employees Provident Fund and Miscellaneous Provisions Act 1952 as the pre-deposit condition under Section 7 (O) of the Act.
7. Learned counsel submits that this Court taking into account the peculiar facts and circumstances, reduced the amount to Rs.25 lakhs which was approximately 50 % of the amount directed to be deposited by the learned CGIT.
8. Learned counsel for the petitioner submits that in fact, there is payment of approximately Rs. 15 crores which has been withheld by the Indian Railways and therefore the petitioner is unable to deposit.

9. Sh. Rajesh Kumar, learned Standing counsel has opposed the same and submitted that the order passed by the learned CGIT is a discretionary order and there is no justification for this Court to interfere in the same.
10. Learned counsel submits that the petitioner may be directed to deposit the remaining amount and therefore the learned CGIT may admit the appeal and dispose of the same in accordance with law.
11. I have considered the submissions of the counsel for the parties.
12. It is not in dispute that an amount of Rs. 89, 66, 766/- has already been deposited/recovered.
13. Thus, in the totality of the facts and circumstances, let the petitioner deposit the remaining amount of Rs. 7,77,620/- within eight weeks. The said deposit shall be made by the petitioner on or before 30th November, 2022. Subject to the said deposit being made, the learned CGIT shall take up the appeal on merit and decide the same as expeditiously possible. However, till that time, no coercive action shall be taken against the petitioner.
14. It is made clear that this Court has not gone into the merits of the case and no expression made herein shall tantamount to an expression of merit.
15. With these observations, the present writ petition along with the pending applications stands disposed of.

DINESH KUMAR SHARMA, J

SEPTEMBER 5, 2022/*Pallavi*