Court No. 550

04.09.2023

(A 16)

(S. Banerjee)

WPA 13374 of 2023

Jai Balaji Industries Limited
Vs.
Union of India & Ors.

Mr. Debanuj Basu Thakur

... for the petitioner

Mr. Jasobanta Rakshit

... for the PF authorities

1. The present writ application has been filed *inter alia*, praying for a direction upon the respondents to permit the petitioner to make payment of the determination made under Section 7Q of the Employees' Provident Fund and Miscellaneous Provision Act, 1952 ('the said Act', for short) for the period from April, 2009 to September, 2021 in instalments. It is the petitioner's case that although, the petitioner was all along interested to liquidate the determination made under Section 7Q of the said Act, the respondents refused to accede to the petitioner's request and by a communication in writing dated 22nd May, 2023 insisted that the petitioner should pay their entire demand, which, *inter alia*, includes the demand on account of damages determined under Section 14B of the said Act, in respect whereof an appeal is pending.

2. Having regard to the submissions made by the petitioner, this Court on 13th July, 2023 had called upon the petitioner to deposit a sum of Rs. 20 lacs with the Provident Fund authorities in order to show its bona fide.

3. The petitioner has since, complied with the aforesaid direction and has made payment of a sum of Rs. 20 lacs with the PF authorities. Factum of payment of Rs. 20 lacs with the PF authorities has also been acknowledged by Mr. Rakshit, learned advocate representing the Provident Fund authorities.

4. It appears that after giving credit to the sum of Rs. 20 lacs and a sum of Rs. 4,56,212/- already paid by the petitioner, a sum of Rs. 1,39,67,417/- remains outstanding towards payment of interest under Section 7Q of the said Act as per the following particulars:

Particulars		Amount (in Rs.)
Determination made under Section 7Q of the said Act for the period from April, 2009 to September, 2021.	:	1,64,23,629
Less paid	:	4,56,212
Less paid	:	20,00,000
Total	:	1,39,67,417

5. Having regard to the aforesaid and taking into consideration the circular dated 11th February, 2014

issued by the Additional Central PF Commissioner (Compliance) addressed to All Additional Central PF Commissioners (Zones) in relation to instructions on grant of installment facility to establishments for liquidating the arrears, I am of the view that the petitioner should at least be permitted the benefit of the aforesaid instructions insofar as payment of interest under Section 7Q of the said Act is concerned, provided the petitioner complies with the following:

a) Make payment of current PF contributions and employer's share regularly by 15th of each month;

b) Causes a revolving bank guarantee for an amount equal to one instalment to be furnished in favour of the Regional Provident Fund Commissioner, Durgapur subject to satisfaction of the Regional Provident Fund Commissioner, Durgapur;

c) Post dated cheques for five installments be made over by the petitioner to the Provident Fund Commissioner, Durgapur along with tender of the first installment;

d) Undertaking that the contribution in respect of outgoing/deceased member shall be paid in one lump sum in the following month itself in addition to the amount of dues and monthly installments.

6. Although, the aforesaid instruction provides for an undertaking by the establishment to make payment of damages as may be levied by the Regional Provident Fund Commissioner, however, after taking into consideration the fact that the petitioner has already preferred an appeal in respect of the demand made in relation to the payment of damages under Section 14B of the said Act for the self-same period for which determination has been made under Section 7Q of the said Act, no such undertaking will be required to be furnished by the petitioner.

7. The petitioner shall make payment of Rs. 40 lacs towards its first installment on or before 29th September, 2023 and the balance amount of Rs. 99,67,417.08 or as may be found due shall be paid in five equal installments payable on or before the 15th day of each succeeding month till such time all the balance five installments are cleared.

8. In addition thereto, the petitioner shall be liable to pay interest on account of delayed payment which shall be computed by the respondents and shall be intimated to the petitioner in due course.

9. In the event the petitioner complies with the aforesaid direction, the respondents shall be restrained from taking any coercive steps against the petitioner insofar as their claim on account of determination made under Section 7Q of the said Act, for the period April, 2009 to September, 2021 is concerned. In the event, however, the petitioner defaults in making payment in any two installments, the aforesaid order shall automatically stand vacated and it would be open to the respondents to take action in accordance with law.

10. With the aforesaid observation and direction, this writ petition stands disposed of.

11. There shall be no order as to costs.

12. All parties are directed to act on the basis of server copy of this order without insisting for a certified copy thereof.

(Raja Basu Chowdhury, J.)