



W.A.No.96 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31.01.2023

Coram:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

Writ Appeal No.96 of 2023
and
C.M.P.No.954 of 2023

M/s.Chitranjilal Spinners Ltd.,
No.12/62-E, Brindavan Road,
1st Cross Fiar Lands,
Salem-636 016.

.. Appellant

Vs.

1. The Asst. Provident Fund Commissioner,
Sub Regional Office,
Employees' Provident Fund Organization,
S.J.Plaza, Swarnapuri,
Salem-636 004.
2. The Presiding Officer,
Employees' Provident Fund Appellate Tribunal,
Scope Minar Core-II,
4th Floor, Lakshmi Nagar,
New Delhi-110 092.

.. Respondents

Page No.1/6



W.A.No.96 of 2023

WEB COPY Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 07.11.2022. passed by the learned Single Judge, in W.P.No.28836 of 2016, on the file of this Court.

Writ Petition No.28836 of 2016 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records relating to the proceedings of first respondent, dated 19.08.2014 in ATA.No.808(13) 2013 and quash the order passed therein.

For appellant : Mr.B.Gopalakrishnan

For respondent : M/s.R.Meenakshi for R-1

JUDGMENT

The present Writ Appeal has been preferred by the appellant-Company, as against the order dated 07.11.2022 passed by the learned Single Judge, in W.P.No.28836 of 2016 on the file of this Court.

2. The Employees' Provident Fund Authority had levied damages which was reduced to 10% by the second respondent-Tribunal. Before the

Page No.2/6



W.A.No.96 of 2023

Tribunal, the learned counsel appearing for the employer has agreed to remit the amount and sought time to remit the same. The Tribunal, in the year 2013, has granted 24 instalments to pay the amount of damages reduced @ 10%. Aggrieved by the said order, the Writ Petition was filed before the Writ Court, which was disposed of on 07.11.2022, wherein the learned Single Judge has granted time to remit the amount within 12 weeks and permitted the appellant-Company to pay the amount in 3 equal instalments and the first instalment was directed to commence from 01.12.2022. The time granted by the learned Single Judge is still in force. The appellant/Company (Management) has agreed to remit the amounts as early as in 2013 and 24 instalments was granted by the Tribunal to pay the said amount. Now, nearly 120 months have gone by (about 10 years) and now the appellant-employer is seeking 18 months' time to pay the amount, which is approximately Rs.5,80,889/-. We are of the view that the employer (appellant-Company herein) has applied trick to avoid payment of damages and instead of paying the amount in 24 instalments, they gained time of 120 months without paying even a single pie.



W.A.No.96 of 2023

3. Since the appellant-employer is now willing to pay the amount in six instalments, now, as a last measure, we direct the Employees' Provident Fund Authority to receive the amount (Rs.5,80,889/-) in six equal instalments, commencing from 01.02.2023 and the first instalment shall be paid on or before 28.02.2023 and the subsequent instalments shall be paid on or before 15th of every succeeding months.

4. In paragraph 14 of the impugned order passed by the learned Single Judge, it was made clear that liberty has been granted to the first respondent herein to recover the amount in terms of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 and the Rules.

5. We make it clear that the said Act provides for arrest also, in case the employer (the appellant-Company herein) fails to remit the amount(s) within time stipulated supra. Accordingly, the Employees' Provident Fund Authority is entitled to take coercive steps not only to recover the amount due, but also to contemplate arrest of the concerned Authorised Representative of the appellant-Company (Management).

Page No.4/6



W.A.No.96 of 2023

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6. We further make it clear that in case the appellant/employer fails to remit even one instalment, the impugned order passed by the learned Single Judge shall stand restored.

7. With the above observations/directions, this Writ Appeal is disposed of. There shall be no order as to costs. Consequently, C.M.P. is closed.

(S.V.N., J) (J.S.N.P.,J)
31.01.2023

Speaking Order: Yes/no

Neutral Citation: Yes/no

cs

To

1. The Asst. Provident Fund Commissioner,
Sub Regional Office, Employees' Provident Fund Organization,
S.J.Plaza, Swarnapuri, Salem-636 004.
2. The Presiding Officer,
Employees' Provident Fund Appellate Tribunal,
Scope Minar Core-II, 4th Floor, Lakshmi Nagar, New Delhi-110 092.

Page No.5/6



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W.A.No.96 of 2023

S.VAIDYANATHAN, J

and

J.SATHYA NARAYANA PRASAD, J

CS

Writ Appeal No.96 of 2023

31.01.2023

Page No.6/6