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W.P.Nos.23126 & 23127 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20..06..2023

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

Writ Petition Nos.23126 & 23127 of 2014

W.P.No.23126 of 2014

M/s.Prakruthi Associates,
Flat No.A3,
Old No.99, New No.167,
Loyds Road,
Royapettah, Chennai 600104,
Rep. by its Partner Mr.R.Sivakumar

..... Petitioner

-Versus-

1.The Regional Provident Fund Commissioner (PDC)
Employees Provident Fund Organization,
Regional Office,
37, Royapettah High Road,
Chennai 600014.

2.The Presiding Officer,
Employees' Provident Fund Appellate Tribunal,
Scope Minar, 4th Floor,
Core 2, Laxmi Nagar,
Delhi 110092.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to
issue a Writ of Certiorarified Mandamus calling for the records from the file of
1st respondent in Proceedings No.TN/RO/CHN/PDC/54896/RPFC/2013, quash



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the order dated 21.07.2014 passed under Section 14B of the EPF Act and direct the 1st respondent not to claim interest till the disposal of appeal ATA No.608 (13) 2011 pending on the file of the 2nd respondent.

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Delhi 110092.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records from the file of 1st respondent in Proceedings No.TN/RO/CHN/PDC/54896/RPFC/2013, quash the order dated 21.07.2014 passed under Section 7Q of the EPF Act and direct the 1st respondent not to claim interest till the disposal of appeal ATA No.608 (13) 2011 pending on the file of the 2nd respondent.



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For Petitioner : *Mr.G.Anand Gopalan*
for M/s.T.S.Gopalan
for petitioner in both WPs

For Respondents : *Mr.V.Sundareswaran*
for R1 in both WPs

COMMON ORDER

W.P.No.23126 of 2014 challenges the proceedings dated 21.07.2014 passed by the 1st respondent under Section 14B of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, while W.P.No.23127 of 2014 challenges the proceedings dated 21.07.2014 passed by the 1st respondent under Section 7Q of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952.

2. It transpires that the writ petitioner had preferred an appeal in ATA No.608 (13) 2011 as against the order passed under 7A of the EPF Act. At the time of admission of the appeal, the EPF Appellate Tribunal, New Delhi, was pleased to pass the following order:-

“3. The appellant is directed to deposit 40% of the assessed amount as per the impugned order with the respondent within 2 months. Any amount already deposited after the assessment be included in the pre-deposit to be made. Subject to said deposit the appeal is admitted for



consideration and the operation of the impugned order is stayed. The respondent is directed not to take any coercive measure till the disposal of the present appeal.”

3. When there is an order of stay granted by the EPF Appellate Tribunal to proceed under Sections 14B and 7Q of the EPF Act, the authority concerned ought not to have proceeded further in the matters. However, the authority had passed the impugned orders. This will amount to overriding the order of stay granted by a duly constituted appellate authority.

4. At this juncture, The learned counsel for the respondent would submit that the appeal was disposed of in 2011 itself. That cannot be a situation because, if the appeal had been disposed of in 2011, there is no question of transferring the proceedings from New Delhi to Bangalore where it is now pending. As long as there is an order of stay and a specific order that the respondent will not take any coercive steps till the disposal of the appeal and when the petitioner had complied with the interim order by depositing a sum of 40% both under Section 14B and 7Q could not have been invoked. That having been invoked, it deserves interference in the hands of this court.

In the result, the writ petitions are allowed. The impugned orders are quashed. However, it is always open to the authorities to proceed against the writ petitioner in case, the appeal preferred by the writ petitioner before the



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Employees' Provident Fund Appellate Tribunal ended against them. No costs.

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Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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To

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V.LAKSHMINARAYANAN, J.

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