



W.P.No.23767 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.23767 of 2023

and

W.M.P.No.23273 of 2023

M/s.R.Krishnamurthy & Co.,
Rep. by K.Sangeeth Natrayan,
Sapthamalika Apartments, 2-E, Front Block,
No.283, Old No.188-B, P.H.Road,
Chennai – 600 010.
Petitioner

...

Vs.

1. The Regional Provident Fund Commissioner – I,
Employees' Provident Fund Organisation,
No.37, Regional Office, Royapettah High Road,
Chennai – 600 014.

2. The Asst. Provident Fund Commissioner (Recovery),
Employees Provident Fund Organization,
No.37, Regional Office, Royapettah High Road,
Chennai – 600 014.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying
for issuance of Writ of Certiorarified Mandamus calling for the records of



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the Central Government Industrial Tribunal cum Labour Court, Chennai in M.P.No.1 of 2023 in EPFA No.7 of 2022 and quash its order dated 17.04.2023 and further direct the Central Government Industrial Tribunal cum Labour Court, Chennai to restore the EPFA No.7 of 2022 back to file.

For Petitioner : Mr.Anand Gopalan
for M/s.T.S.Gopalan and Co
For Respondents : Mr.R.Vishnu for PF

ORDER

This writ petition has been filed seeking for issuance of a writ of Certiorarified Mandamus to quash the order passed by the Central Government Industrial Tribunal cum Labour Court, Chennai in M.P.No.1 of 2023 in EPFA No.7 of 2022 dated 17.04.2023 and for a consequential direction to the Central Government Industrial Tribunal cum Labour Court, Chennai to restore the EPFA No.7 of 2022 dated 17.04.2023.

2. It is the case of the petitioner that the petitioner is a registered contractor, who is engaged in the business of construction established in the year 1991. However, based on the inspection conducted by the respondents, an order u/s.7A of the Employees' Provident Funds and Miscellaneous



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Provisions Act, 1952 dated 08.11.2021, was passed by the 1st respondent directing the employer to remit a sum of Rs.2,66,73,357/- towards Provident Fund contributions payable by him. Aggrieved over the said order, the petitioner preferred an appeal before the Central Government Industrial Tribunal Shastri Bhavan, Chennai in EPFA No.7 of 2022 and the same was withdrawn by the petitioner vide order dated 30.05.2022. Thereafter, the petitioner filed a review application u/s.7B of the Act, before the respondents and the same was rejected stating that the said application is not maintainable in view of the appeal filed, challenging the 7A order dated 09.11.2022. In such circumstances, the petitioner filed an application in M.P.No.1 of 2023 in EPFA No.7 of 2022, before the Central Government Industrial Tribunal Shastri Bhavan, Chennai seeking to restore the appeal dated 30.05.2022, wherein the Tribunal vide order dated 17.04.2023 has held that there is no provision to restore the appeal in EPFA No.7 of 2022 filed by the petitioner, when the said appeal was dismissed as withdrawn. Challenging the same the present writ petition has been filed.



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3. The learned counsel for the petitioner submits that though very many grounds have been raised, the learned counsel for the petitioner submits that on an earlier occasion, the Tribunal vide order dated 30.05.2022, was constrained to admit the appeal in EPFA No.7 of 2022 subject to payment of 50% of the determined dues payable by the petitioner as per 7A order dated 08.11.2021, however, when the petitioner filed a memo for withdrawal on 26.05.2022, the Tribunal has passed an order as dismissed as withdrawn. The learned counsel for the petitioner, on instructions submits that the petitioner is ready to pay 70% of the determined dues payable by him as per order dated 08.11.2021. Hence, this Court may quash the impugned order dated 17.04.2023 M.P.No.1 of 2023 in EPFA No.7 of 2022 and to remand the matter back to the appellate authority.

4. The learned counsel appearing for the respondents submits that though the petitioner on his own volition has withdrawn the appeal in EPFA No.7 of 2022, however, all of a sudden, seeking to restore the said appeal



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cannot be sustained. He further submits that the petitioner has also filed an application in M.P.No.1 of 2023 in EPFA No.7 of 2022 before the Tribunal to restore the appeal in EPFA No.7 of 2022, however the Tribunal has rightly appreciated the fact that there is no provision to restore the appeal in EPFA No.7 of 2022 filed by the petitioner, when the said appeal was dismissed as withdrawn. Hence, the impugned order passed by the Tribunal needs no interference of this Court and the writ petition is liable to be dismissed.

5. Heard learned counsel appearing on either side and perused the materials placed on record.

6. Admittedly, the 7A order was passed by the 1st respondent, which was challenged before the Tribunal by way of an appeal, however, the Tribunal vide order dated 30.05.2022, was constrained to admit the appeal in EPFA No.7 of 2022 subject to payment of 50% of the determined dues payable by the petitioner and when the petitioner filed a memo seeking withdrawal of the said appeal, the same was dismissed as withdrawn. In the



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meanwhile, an application for restoration of the said appeal was filed before the Tribunal, however, the Tribunal passed the impugned order stating that there is no provision to restore the appeal in EPFA No.7 of 2022 filed by the petitioner, when the said appeal was dismissed as withdrawn, which resulted in filing the present writ petition.

7. Though the facts stands as such, however, in view of the stand taken by the learned counsel for the petitioner that the petitioner is ready to deposit 75% of the contribution as per 7A order, this Court directs the petitioner to pay 50% of the determined contribution payable by him as per order dated 08.11.2021 within a period of six (6) weeks from the date of receipt of a copy of this order and the remaining 25% shall be paid within a period of four (4) weeks thereafter. Upon receipt of the said amount, the Central Government Industrial Tribunal cum Labour Court, Chennai is directed to entertain the appeal filed by the petitioner in EPFA No.7 of 2022 and pass appropriate order on merits and in accordance with law as expeditiously as possible after affording an opportunity of personal hearing



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to the petitioner.

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8. In view of the above observations and directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

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(rap)

NCC: Yes / No

Index : Yes / No

Speaking Order : Yes / No

Office to Note : Issue Order Copy on 25/09/2023.

To

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M.DHANDAPANI,J.

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