



WEB COPY



W.P.No.24982 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.24982 of 2023
and W.M.P.No.24404 of 2023

M/s.BVV Paper Industries Pvt. Ltd.,
Rep. by its Director, Mr.Sharad Khandelwal,
No.148, Palani Road,
Venkatesa Mills (PO), Udumalaipettai,
Thiruppur District – 642 128.

... Petitioner

Vs.

Regional Provident Fund Commissioner-II/Recovery Officer,
Employees Provident Fund Organisation,
District Office, No.16, A.R.S.Road,
Bava Lodge Building, Nagal Nagar,
Dhindukkal – 624 003.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for records of the impugned order dated 17.07.2023 passed by the Central Government Industrial Tribunal, Chennai in EPFA No.86 of 2023 to quash the same and direct the Central Government Industrial Tribunal, Chennai to stay the recovery proceedings initiated by the respondent, without any payment of conditional pre-deposit, until disposal of the Appeal No.86 of



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For Petitioner : Mr.P.Thangaraju
For Respondent : Mr.P.K.Panner Selvam

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorarified Mandamus, to call for the records of the impugned order dated 17.07.2023 passed by the Central Government Industrial Tribunal, Chennai in EPFA No.86 of 2023 to quash the same and direct the Central Government Industrial Tribunal, Chennai to stay the recovery proceedings initiated by the respondent, without any payment of conditional pre-deposit, until disposal of the Appeal No.86 of 2023.

2. Mr.P.K.Panneer Selvam, learned counsel accepts notice for the respondent. In view of the consent expressed by the learned counsel appearing for the parties, this petition is taken up for final disposal.

3. The case of the petitioner is that, it is a private limited company, which was incorporated under the provisions of the Companies Act,



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1956. The respondent issued summons under Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (in short 'the Act') for determining damages for delayed payment of EPF contributions on 11.04.2023. Thereafter, the respondent passed an order directing the petitioner to pay a sum of Rs.57,85,526/- as damages under Section 14B of the Act vide order dated 02.05.2023. As against which, the petitioner preferred an appeal in EPFA No.86 of 2023 under Section 7-I of the Act before the Central Government Industrial Tribunal (in short 'CGIT') on 09.05.2023, in which, the CGIT passed the impugned order dated 17.07.2023 directing the petitioner to deposit a sum of Rs.10,00,000/- as a conditional pre-deposit to stay the recovery proceedings. Challenging the same, the above writ petition has been filed.

4. The learned counsel for the petitioner submits that, the petitioner is a poor paper industry and they are not able to deposit the amount of Rs.10,00,000/- as conditional amount in one lumpsum as ordered by the CGIT. Hence, he submits that, this Court may modify the conditional amount ordered by the CGIT.



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5. The learned counsel appearing for the respondent submits that, as against the 14B order, though there is no need for pre-deposit, however, the Tribunal while entertaining the appeal filed by the petitioner, had exercised its discretionary jurisdiction and imposed a condition of pre-deposit, which should not be interfered with by this Court. Accordingly, he prays for dismissal of the writ petition.

6. Considering the facts and circumstances of the case and also the fact that the petitioner is unable to deposit the conditional amount and in order to strike balance between the parties, this Court is inclined to modify the conditional amount ordered by the CGIT.

7. Accordingly, the conditional deposit of Rs.10,00,000/- is modified to that of Rs.2,00,000/- (Rupees Two Lakhs only) and the petitioner is directed to deposit the same before the respondent within a period of two (2) weeks from the date of receipt of a copy of this order. On receipt of such deposit, the CGIT is directed to dispose of the appeal filed by the petitioner within a period of six (6) weeks thereafter.



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8. With the above modification and directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

28.08.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

To

The Regional Provident Fund Commissioner-II/Recovery Officer,
Employees Provident Fund Organisation,
District Office, No.16, A.R.S.Road,
Bava Lodge Building, Nagal Nagar,
Dhindukkal – 624 003.



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M.DHANDAPANI, J.

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