2023:PHHC:131227

114

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

****

CWP-20814-2023 (O&M)
Date of Decision: 10.10.2023

M/s S.D. Engineers Tech. Pvt. Ltd.

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Surinder Singh, Advocate
for the petitioner.

Mr. Rajesh Hooda, Advocate
for respondents No.2 and 3.

*****

HARSH BUNGER J. (ORAL)

CM No.17364-CWP-2023:

Present application is filed for placing on record affidavit dated 05.10.2023 (Annexure A-1).

For the reasons mentioned in the application, affidavit dated 05.10.2023 (Annexure A-1) is taken on record, subject to all just exceptions.

Application is accordingly disposed of.

CWP-20814-2023:

1. The present writ petition under Articles 226 ad 227 of the Constitution of India has been filed for quashing of impugned order dated 06.07.2023 (Annexure P-5) passed by respondent No.3. A further prayer has

been made to direct the respondents to consider the request of petitioner raised vide representations dated 04.09.2023 (Annexure P-6), 08.09.2023 (Annexure P-7) and 13.09.2023 (Annexure P-8), for making installments of the outstanding dues of Employees' Provident Fund towards the petitioner, determined by respondent No.3.

2. By way of CM No.17364-CWP-2023, affidavit dated 05.10.2023 of Mr. Shiv Pujan Singh, Director of M/s S.D. Engineers Tech. Pvt. Ltd. has been placed on record, wherein he has given the following undertaking:-

> "*i. That the petitioner-company has already paid the PF contribution for the period Apr-2023 to Aug-2023, but there has been some delay in such payment and in respect of such delay, if any charges are liable to be paid, the petitioner-company is ready to pay the same. The petitioner-company further undertakes to pay the PF contribution for Sep-2023 to Oct-2023 by 15th Oct 2023, along with the charges, if any.*
>
> *ii. That the petitioner-company further undertakes to pay the contribution and employer's share on a regular basis by the 15th of every calendar month.*
>
> *iii. That the petitioner-company is ready to pay the amount in dispute under the installment facility of 36 installments as per clause 2 read with clause 4 of the Instructions dated 11.02.2014 issued by Additional Central PF Commissioner (Compliance) i.e. Annexure P-9. As per the said Instructions, after availing the 36 installments facility, the amount per installment would come to Rupees 1.54 Lakhs (Approx.) per month. But, the petitioner-company is even ready to pay Rupees 2 Lakhs per month with the EPFO against the outstanding amount.*"

3. Learned counsel for respondents No.2 and 3 submits that in terms of Instructions dated 11.02.2014 (Annexure P-9), the petitioner would

also be required to comply with various other terms and conditions as stipulated in paragraphs No.2 and 4 thereof, which read as under:-

> *"2. The proposal for further revising the conditions for grant of installments to the establishments for liquidating the arrears was placed before the Central Board of Trustees in its 202nd meeting held on 13.01.2014 and the Central Board acceded to the proposal. The following terms and conditions are now prescribed for allowing the establishments desirous to avail installment facility to liquidate the arrears in 36 installments:*
>
> *a) The facility of installment shall be available to both Un-exempted as well as Exempted Establishments.*
>
> *b) The facility of installment shall cover unpaid employees as well as employer's share of PF contribution, damages, interest.*
>
> *c) Current contributions and employer's share shall be paid regularly by 15th of each month.*
>
> *d) Each installment shall be paid along with interest under Section 7Q of the month along with current contributions.*
>
> *e) A revolving bank guarantee for an amount equal to one installment shall be furnished along with the application for installment facility.*
>
> *f) Post Dated Cheques from the defaulting establishments for the number of installments shall be obtained for ensuring compliance of terms and conditions of Installment facility.*
>
> *g) 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 installment.*
>
> *h) The employer shall undertake to pay such damages as may be levied by the RPFCS concerned and that grant of installment facility is not absolving him from the payment of statutory dues under Section 14 B and 7Q.*
>
> *i) In case of dues exceeding Rs. 25 lakhs, the establishment shall furnish in addition to the revolving bank guarantee*

> *covering one installment, an undertaking that he shall not transfer the immovable property by sale, lease, gift or any other manner whatsoever during the currency of the installment facility.*
>
> *- x - x -*
>
> *4. The delegation of powers for grant of installment facility as approved by the Central Board of Trustees in its 174th meeting held on 23.02.2006 and circulated vide this office circular No. Co-ord/11(24)05/Adm. Inspection/Cir/Pt/1403 dated 07.04.2006 remains unchanged. The proposals where, either the amount outstanding is beyond Rs. 50 lac or where the number of installments sought for is beyond thirty six, shall be sent to Head Office for grant of installment facility confirming all the terms and conditions stipulated at Para 2 and 3 above whichever are applicable."*

4. Learned counsel for respondents No.2 and 3 further submits that in order to consider the prayer of petitioner in terms of the aforestated Instructions dated 11.02.2014, the petitioner has to apply for the same before the concerned authority.

5. In view of the above, learned counsel for the petitioner submits that he would file the necessary application, including the prayer to de-freeze the accounts so as to make the necessary payments, within a period of seven days from today.

6. At this stage, learned counsel for respondents No.2 and 3 submits that in case any such application is filed on behalf of the petitioner before the concerned authority, the same shall be considered expeditiously, in accordance with law.

7. Keeping in view the aforesaid submissions made by learned counsel for the petitioner and respondents No.2 and 3, the present petition is disposed of with a direction to respondents No.2 and 3 that in case the

necessary application, in terms of Instructions dated 11.02.2014 (Annexure P-9), is filed before the concerned authority and the necessary compliances are made on behalf of the petitioner then the said application shall be considered within a period of two months from the date of receipt of such application.

8. All pending application(s), if any, shall also stand closed.

10.10.2023 **(HARSH BUNGER)**
Apurva **JUDGE**

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No