20.11.2024
Court No.13
Item No.37
AP

MAT 1357 of 2024
With
CAN 1 of 2024
With
CAN 2 of 2024

National Jute Manufactures Corporation Ltd.
Vs.
Union of India & Ors.

Mr. Soumik Ghosh
Ms. Karuna Bose
...For the Appellant.

Mr. Mihir Kundu
...For the Respondent Nos.2 & 3.

Mr. Rishad Medora
Ms. Sonali Ghosh Panda
Mr. Sagnik Mukherjee
...For the Respondent No.4.

Re.: **CAN 1 of 2024**

1. CAN 1 of 2024 has been filed seeking condonation of delay in filing the instant appeal.

2. Sufficient grounds are available to explain the delay in filing the appeal.

3. Delay is condoned.

4. Accordingly, CAN 1 of 2024 is allowed.

Re.: MAT 1357 of 2024
With
CAN 2 of 2024

5. Affidavit of service filed in Court today is taken on record.

6. The appeal is directed against a judgment and order dated 1st April, 2024 passed by a Single Bench of this Court in WPA 10753 of 2020 (Yogesh Kumar Garg Vs. Union of India and Ors.). The respondent/workman had filed the writ petition seeking interest on the PF accumulation standing to his credit that was not being paid to him.

7. The Court below directed the National Jute Manufacturers Corporation Limited (hereinafter referred to "the NJMC Limited") to pay the petitioner 12 percent interest. The appellant was required to pay 12 percent interest to the respondent workman except for the period from September 2019 to 4th February, 2020, which is already paid to him. The interest was payable effectively from 18th January, 2015 to August, 2019.

8. Counsel for the appellant, NJMC Limited, submits that they are a body corporate under the Ministry of Textiles. They previously had several jute mills and, lastly they had four jute mills in their control. The PF of the workmen of each jute mill was maintained by a trust since the four jute mills under the appellant were exempted under Section 17 of the EPF (Miscellaneous Provisions) Act, 1956.

9. It is submitted that the direction on the NJMC Limited to pay interest by the Single Bench is erroneous in as much as, firstly, the NJMC Limited was not the employer of the writ petitioner/respondent; secondly,

that the respondent/workman was employed under Kinnison Jute Mill Limited. The said jute mill had a separate trust which maintained the PF accounts of all workmen of the said mill called Kinnison Jute Mill Staff Provident Fund Institution.

10. It appears that the appellant was declared a sick industrial company under the Sick Industrial Companies (Special Provisions) Act, 1985. It further appears from the records that the PF institution of Kinnison Jute Mill Limited has been defunct from 2012 and it is only in the year 2019 that the EPF authorities directed the trustees of the Kinnison Jute Mill Staff Provident Fund Institution to transfer all funds lying with their bank to the said authorities.

11. Affidavit-in-opposition and the report filed in the Court below by the PF authorities confirms that all sums lying to the credit of the Kinnison Jute Mill Staff Provident Fund Institution with the UCO Bank were transferred to the PF authorities.

12. Admittedly, the NJMC is at best an umbrella institution of the four jute mills. Once exemption under Section 17 of the Act of 1956 is granted, the liability to pay PF and interest for delayed payments thereon vests on the trust which is created for the maintenance of PF dues. The trustees are the persons who are actually liable. Admittedly, since the entire PF trust has been transferred to the PF authorities the liability to pay

interest for the period indicated above, by the Single Bench, would have to be borne by the PF authorities and not the owner much less the trustees.

13. This Court is surprised to note as to why the PF authorities have not instituted proceedings inter alia under Section 7A of the Act, against the trustees and/or the real persons behind the trust of the four jute mills under the NJMC.

14. It is expected that proceedings are drawn up immediately after calculation of the PF contributions of the employer and the employee from the date of inception of the trust, if necessary.

15. In the above circumstances, the impugned order shall stand modified to the extent of directing the PF authorities particularly respondent No.3 in the writ petition being the Regional Provident Fund Commissioner-II to pay interest at the rate of 12 percent per annum for the period from 18th January, 2015 till August, 2019 to the respondent/workman namely Yogesh Kumar Garg within two weeks from the date of receipt of a copy of this order. In default whereof the rate of interest shall stand increased to 15 percent.

16. It is made clear that the above order confined only to the payment receipt on interest on PF by the respondent workman. All other proceedings against the

concerned workman that are pending shall continue in accordance with law.

17. With the aforesaid direction, the appeal is disposed of.

18. In view of the disposal of the main appeal, connected pending applications, if any, shall also stand disposed of.

19. There shall be no order as to costs.

20. All parties are to act on a server copy of this order duly downloaded from the official website of this court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)