17.12.2024
Sl. No.28.
D/L
Mithun
Ct.No.-2.

WPA/27185/2024

The Hooghly Mills Company Limited & Anr.
Vs.
Union of India & Anr.

Mr. Shyamal Sarkar, Sr. Adv.
Mr. Meghajit Mukherjee,
Mr. Rajesh Gupta,
Ms. Brinda Sengupta
…for the petitioner.
Mr. Shiv Chandra Prasad
…for the P.F. Authorities.

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

Mr. Shyamal Sarkar, learned Senior Advocate appears for the petitioners being ably assisted by Mr. Rajesh Gupta, learned Counsel.

Mr. Shiv Chandra Prasad, learned Counsel appears for respondent no.2.

Respondent no.1 is not represented.

Referring to the impugned notice dated July 15, 2024, Annexure P-5 at Page 111 to the writ petition, learned Senior Counsel, Mr. Sarkar submits that the Provident Fund Authority seeks to withdraw the exemption which is being enjoyed by the petitioner under Section 17 of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. The petitioner has challenged the legality and validity of the said notice principally on the ground that without amending the parent statute, since the parent statute does not provide for any provision for such withdrawal, the impugned notice ought not to have been issued. He further submits that the petitioner is exempted from all the provisions of 1952 Scheme.

Per contra, Mr. Prasad appearing for the Provident Fund Authority referring to the said impugned notice submits it is merely a proposal to withdraw the exemption. No action has been contemplated which amounts to the that exemption has already been withdrawn.

After considering the rival contentions of the parties and upon perusal of the materials on record, it appears to this Court that, since the petitioner has challenged the issuance of the said impugned notice, the reasons behind the same are required to be known to the petitioners so that the petitioners can ascertain the legality and validity of such reasons.

In view of the above, the petitioner shall file a composite reply to the said impugned notice dated July 15, 2024 addressing the respondent no.2 positively on or before January 15, 2025.

Immediately after receiving the said reply from the petitioners, the respondent no.2 shall issue a prior notice of hearing of at least 3 days to the petitioners and then after granting them an opportunity of hearing, shall decide the issue in the light of the said impugned notice dated July 15, 2024 and the contention of the petitioners to be submitted through their reply by passing a reasoned order in accordance with law.

This exercise shall be carried out and completed by the respondent no.2 positively on or before February 15, 2025. The reasoned order shall be intimated to the petitioners within a week therefrom. There shall be no coercive steps to be taken by the respondent no.2 and / or the Provident Fund Authority against the petitioners till February 28, 2025.

Learned Senior Counsel appearing for the petitioner, on instruction from his client, submits the petitioner no.1 has been regularly depositing the provident fund contribution with the relevant trust and the petitioner no.1 has been filing the provident fund return before the appropriate authority regularly, which would show that the deposits are being made regularly by the petitioner no.1 with the relevant trust.

The petitioners shall continue to deposit the same with the trust.

This Court has not gone into the merits of the claim of the petitioners and all points are left open for consideration before the respondent no.2.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition being **WPA 27185 of 2024** stands disposed of, without any order as to costs.

(Aniruddha Roy, J)