2024:BHC-AUG:5400-DB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

911 WRIT PETITION NO. 2262 OF 2024

MS SACHIN GHYAL SUGAR PVT LTD THROUGH ITS DIRECTOR RAMESHWAR JAGANNARTH CHITALE
VERSUS
UNION OF INDIA THROUGH SECRETARY AND OTHERS

Mr.N.B.Khandare, Advocate for the Petitioner.
Mr.A.G.Talhar, Advocate for Respondent No.1.
Mr.N.K.Choudhari, Advocate for Respondent No.2.
Mr.R.R.Imale, Advocate for Respondent No.5.

(CORAM : RAVINDRA V. GHUGE AND R.M. JOSHI, JJ.)

DATE : MARCH 5, 2024

PER COURT :

1. The order passed u/s 7-A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, is dated 12.12.2023, for the period 06/2015 to 01/2022. The Industrial Establishments who participated together in the Section 7-A proceeding, comprise of M/s Sant Eknath Sahakari Sakhar Karkhana Limited, Nath Nagar, Tal.Paithan, Dist.Chatrapati Sambhaji Nagar, represented by Mr.Sachin Ghayal, Chairman (lessor) M/s Sachin Ghayal Sugar Pvt. Limited, Shri Laxmikant Jaipurkar, CS, Shri Tushar Shishode, Chairman, M/s Sant

Eknath SSK Ltd., Shri Rohit Londe, MD,(lessee) Shri Shri Gopal Arcade, Chairman M/s Sheela Atul Sugar Tech Pvt.Ltd., on behalf of the Administrator - Shri Mukesh Barahate, District Sub Registrar Shri V.P.Rogade, Assistant Registrar Ramrao Shelke. On behalf of the complainant /Seva Nivrutta Kamgar Kruti Samiti : D.K.Magar on behalf of the Petitioners in WP No.10455/2022, Adv.Ramrao Imale also participated in the hearing.

2. We have considered the submissions of the learned Advocates for the respective sides for quite some time. It is undisputed that the Central Government Industrial Tribunal (for short, CGIT), which is invested with the powers of the Appellate Provident Fund Tribunal under the provisions of the 1952 Act and the Tribunal Rules, 1997, is without a Presiding Officer at Nagpur. The Petitioner before this Court is M/s Sachin Ghayal Sugarcane Private Limited. M/s Sant Eknath Sahakari Sakhar Karkhana limited is arrayed as Respondent No.3 and M/s Sheela Atul Sugar Tech Pvt.Ltd., is arrayed as Respondent No.4. The Union Action Committee is Respondent No.5. The record indicates that the Petitioner, Respondent No.3 and Respondent No.4, are together as one entity before the Provident Fund

Establishment in the Section 7-A proceedings. Since the Presiding Officer of the CGIT is not available, the Petitioner has preferred this Petition.

3. Considering the Law laid down by the Hon'ble Supreme Court in **Assistant Commissioner (CT) LTD, Kakinda and Others Vs. Glaxo Smith Kline Consumer Health Care Limited [(2020) 19 SCC 681]**, a statutory appeal has to be filed within limitation, inclusive of the extended period which is in addition to the limitation period, failing which, even the Supreme Court has declined to entertain a Petition under Article 142. It is held by the Hon'ble Supreme Court that in such circumstances, if an appeal is not preferred within 60 days or the extended period of 60 days, which is an agreegate of 120 days, neither a Petition under Article 142 would be maintained before the Hon'ble Supreme Court, nor would a Writ Petition under Article 226 be entertained by the High Court.

4. In this backdrop, the learned Advocate for the Petitioner submits that an appeal u/s 7(I) of the 1952 Act will be filed within the period of 120 days keeping in view the impugned order dated

12.12.2023. The statement has been recorded.

5. Needless to state, if an appeal is preferred u/s 7(I), the Appellant has to deposit 75% of the assessed amount u/s 7(O). The total amount assessed is Rs.1,68,92,558/-. The learned Advocate for the Petitioner submits on instructions that the Petitioner would challenge the entire order before the CGIT. In order to seek interim relief and protect the Petitioner from coercive steps, the Petitioner agrees to deposit 75% of the said amount with the EPF Organization at Aurangabad.

6. It is well settled that if the statutory deposit amount is deposited by the Appellant, further coercive steps are not to be taken until the appeal is decided. Such orders are restricted only to the cause raised in the appeals.

7. In view of the above statement, let 75% of the amount be deposited with Respondent No.2 RPFC-2 at Chatrapati Sambhaji Nagar within a period of 30 days, as per the statement made on instructions from the Petitioner. With this, the Petitioner would stand protected

against coercive action by the RPFC until the appeal is decided, to the extent of the cause emerging from the impugned order dated 12.12.2023. Needless to state, if the appeal is not filed within the maximum period of 120 days, which included the extended period, this order of protection would lose it's efficacy and the impugned order dated 12.12.2023 shall be enforceable. So also, if the amount is not deposited by the Petitioner within 30 days from today with Respondent No.2, this order shall stand vacated forthwith.

8. With the above directions, **this Petition is disposed off.**

(R.M.JOSHI, J.) **(RAVINDRA V. GHUGE, J.)**