



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(Correction is made in line No.2 of clause 'A' in operative part of this order vide Speaking to Minutes order dated 06.08.2024.)

949 WRIT PETITION NO.7187 OF 2024

SHREE TUBE MFG. CO. PVT. LTD.

VERSUS

EMPLOYEES PROVIDENT FUND ORGANIZATION

...

Mr. B.R. Kawre, Advocate for petitioner

Mr. N.K. Choudhari, Advocate for sole respondent

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CORAM : S.G. CHAPALGAONKAR, J.

RESERVED ON : 18th JULY, 2024

PRONOUNCED ON : 20th JULY, 2024

ORDER :

1. Petitioner impugns order dated 20.03.2023 passed under Section 7-A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (for sake of brevity hereinafter referred to as "**EPF and MP Act**") as well as order dated 26.06.2024 passed in review application.

2. Mr. B.R. Kawre, learned Advocate appearing for petitioner submits that petitioner has been victimized and benefits of scheme initiated under Section 7-A were not provided to him. Further, without verifying record, report of Enforcement Officer was accepted for assessment of

contribution on outsider labour charges. Assessment is based on assumptions and presumptions. As such impugned order under Section 7-A of EPF & MP Act has been passed, thereby assessing liability towards contribution and miscellaneous charges to the tune of Rs.3,73,550/- for the period from 04/2020 to 03/2023. Review application filed under Section 7-B of EPF and MP Act is also dismissed. Respondent has also issued recovery certificate dated 22.04.2024, eventually issued demand notice dated 04.06.2024, coercing petitioner for recovery of assessed amount.

3. Petitioner challenged aforesaid order before EPFAT-cum-CGIT at Nagpur, however, presently post of Presiding Officer is vacant. As such petitioner has no other remedy for redressal of his grievance. Respondent-authorities are pressurizing him to execute order under appeal.

4. Mr. N.K. Choudhari, learned Advocate appearing for respondent, however, submits that as per statutory scheme petitioner will have to deposit 75% of dues even for entertaining his appeal filed under Section 7-J of EPF and MP Act.

5. Mr. B.R. Kawre would submit that he had referred waiver application under Section 7-O along with appeal and he has good grounds to seek such waiver.

6. Considering submissions advanced by learned Advocates for both

parties, it can be observed that petitioner has availed substantive remedy of appeal against impugned orders passed by concerned authorities under EPF and MP Act. However, effective orders could not be passed due to unavailability of Presiding Officer at EPFAT and CGIT at Nagpur. In these circumstances, looking to the fact that respondent authorities have served notice of demand dated 04.06.2024 and coercing petitioner for compliance of order, petition can be disposed of, by giving certain direction, without going into merits of matter. Hence, the following order.

ORDER

- A. Writ Petition stands disposed of with direction to petitioner to deposit 50% of dues under demand notice dated 04.06.2024 with respondent within a period of four weeks.
- B. On deposit of such amount, notice of demand dated 04.06.2024 shall be kept in abeyance till hearing of waiver application of petitioner filed under Section 7-O EPF and MP Act along with application seeking stay to impugned orders.
- C. It is made clear that aforesaid order is passed only by way of stop gap arrangement, without touching to merits of case and Tribunal shall be at liberty to pass further orders in accordance with law, without influenced by any observation or statement in this order.

(S.G. CHAPALGAONKAR)
JUDGE