2024:BHC-AUG:1728

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 689 OF 2024

MS PANDIT DIN DAYAL NAGARI SAHAKARI PATSANSTHA MARYADIT
VERSUS
THE ASSISTANT PROVIDENT FUNDS COMMISSIONER

….

Mr V. N. Upadhye, Advocate for Petitioner;
Mr N. K. Choudhari, A.G.P. for Respondent

CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.

DATE : 24th January, 2024

PER COURT:

1. We have heard the learned Advocates for the respective sides and we are apprised of the chequered litigation history in this matter. In the first round of litigation, when the Petitioner approached the Provident Fund Appellate Tribunal in 2014, it was directed to deposit 40% of the assessed amount of Rs.32,14,936/- under Section 7-A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (for short ‘the said Act’). The said amount for the period of 01/2005 to 03/2012, was deposited by the Petitioner.

2. The Petitioner received an order of remand from the Tribunal and the matter was reconsidered by the Provident Fund Authorities under Section 7-A of the said Act. A fresh order has been passed. The Petitioner has filed an Appeal within limitation. Since the Appellate Tribunal i.e. Central Government Industrial Tribunal (CGIT), Mumbai-1 is without a Presiding Officer, this Petition has been filed for seeking interim protection.

3. The learned Advocate for the Provident Fund Department submits that, considering the earlier deposit by the Petitioner, and as this Court normally directs to deposit 50% of the assessed amount while while granting protection, the Petitioner will have to deposit a further amount of Rs.3,23,994/- (rounded off to Rs.3,24,000/-).

4. As on date, keeping in view that the Petitioner has preferred an Appeal before the CGIT, Mumbai-1, the issue pertains to the same period 01/2005 to 03/2012. The same amount of Rs.32,14,936 is to be recovered. The Petitioner’s deposit of Rs.12,85,974/- since 2014, is on record. As such, we do not wish to add any further conditions since the Petitioner has earlier deposited 40% of the said amount under the orders of the

Tribunal. Needless to state, if further interest and penalty is calculated by the Provident Fund Department, that would be a new cause of action for the Petitioner.

5. In view of the above, **this Writ Petition is disposed off** with a direction to the Provident Fund Department, not to initiate coercive steps against the Petitioner, until the pending Appeal of the Petitioner before the CGIT, Mumbai-1, is decided. We also record that, once the Presiding Officer is appointed on the CGIT, Mumbai-1, the Petitioner's Appeal dated 08/12/2023, shall be decided within a period of six months.

(Y. G. KHOBRAGADE, J.) **(RAVINDRA V. GHUGE, J.)**

sjk