



W.P.No.7124 & 7127 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.Nos.7124 and 7127 of 2024

and

WMP.No.7974 of 2024

M/s. Argus Cosmetics Ltd.,
Sujatha Centre II Floor,
4, Seshadri Road Alwarpet,
Chennai-600 018.
Rep. by its Director.

...Petitioner in both W.P.Nos.

Vs.

1.The Regional Provident Fund Commissioner II,
Employees Provident Fund Organization,
Regional Office: Chennai II
No.37, Royapettah High Road,
Chennai-600 014.

2.The Recovery Officer,
Employees Provident Fund Organization,
Regional Office: Chennai II
No.37, Royapettah High Road,
Chennai-600 014.

...Respondents in both W.P.Nos.

Prayer in W.P.No.7124 of 2024: Writ petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records of the Central Government Industrial Tribunal Cum Labour Court, Chennai in EPFA No.108/2023 quash its order dated



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12.01.2024 in so far as directing the petitioner to deposit Rs.20,00,000/- as damages.

Prayer in W.P.No.7127 of 2024: Writ petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, permitting the petitioner to remit the sum of Rs.49,13,478/- directed to be deposited in terms of the Order of Central Government Industrial Tribunal cum Labour Court, Chennai in EPFA No.103/2023 dated 08.01.2024 for Rs.5,67,611/- and in EPFA No.108/2023 dated 12.01.2024 for Rs.44,13,478/- in 15 equated monthly instalments.

Petitioner in both W.P.Nos. : Mr.Anand Gopalan

for Agam Legal

Respondents in both W.P.Nos: Mr.R.Vishnu

COMMON ORDER

W.P.No.7124 of 2024 is filed challenging the order dated 12.01.2024 in EPFA No.108/2023 in so far as directing the petitioner to deposit Rs.20,00,000/- as condition for grant of stay.

2. W.P.No.7127 of 2024 is filed against the order passed in EPFA.No.103 of 2023 dated 08.01.2023 and EPFA No.108 of 2023 dated 12.01.2024 in so far as it relates to the interest imposed under Section 7(Q) of the EPF Act.



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3. With the consent of both the learned counsels, the main writ petitions itself is taken for hearing.

4. The learned counsel for the petitioner submits that considering the precarious financial condition of the petitioner the direction to deposit Rs.20,00,000/- as condition for grant of interim stay by the Appellate Tribunal was onerous. Learned counsel relying on the Judgment of the Hon'ble Supreme Court in the case of *Shiv Harbal Research Laboratory Vs. Assistant P.F. Commissioner* reported in 2016 LLR 55 submits that the Appellate Tribunal had no authority to direct the petitioner to deposit Rs.20,00,000/- for granting interim stay. The learned counsel for the petitioner further submits that the petitioner is ready to pay the penal interest of Rs.49,81,089/- as per 7(Q) order in 15 Equated Monthly Instalments.

5. The learned counsel for the respondents on the other hand submits that the aforesaid order of the Hon'ble Supreme Court was with reference to the mandatory deposit of 75% contemplated under the Act for preferring



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the appeal under Section 7-A order and had no relation to the discretion vested in it for granting interim stay.

6. I have heard both the learned counsels and I have perused the materials placed on record.

7. The Hon'ble Supreme Court in the aforesaid Judgment held as follows:

“4. When specific provision has been made with regard to appeals Under Section 7A and Under Section 7-O, a definite provision has been indicated for deposit of 75% of the awarded amount and there is no such provision in Section 7-I, we cannot read the principles of Section 7-O into the provisions of Section 7-I in relation to appeals Under Section 14B of the above Act.”

In my view, as rightly contented by the learned counsel for the respondents, the Hon'ble Supreme Court only held that the provisions of Section 7-O cannot be read into provision of Section 7-I relating to an appeal under Section 14-B of the Act.



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8. The Appellate Court in my view has the discretionary power to impose any condition as it deemed fit for granting interim stay. Having said so, it is to be seen whether the condition directing to deposit Rs.20,00,000/- for granting interim stay in the present case is justified or not. In my view, considering the financial condition of the petitioner, the direction to deposit Rs.20,00,000/- is onerous. The Tribunal while exercising its discretionary power ought to have considered the precarious financial condition of the petitioner. Therefore in my view, instead of setting aside the impugned order, the interest of justice would be made, if instead of conditional deposit of Rs.20,00,000/- the petitioner is directed to deposit Rs.10,00,000/- (Rupees Ten Lakhs) on or before 02.06.2024.

9. Accordingly, interim order of stay granted by the Appellate Tribunal is modified directing the petitioner to deposit a sum Rs.10,00,000/- on or before 02.06.2024, failing which, the interim stay will stand vacated automatically.



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10. In so far as penal interest under 7(Q) is concerned, the petitioner is permitted to remit the penal interest of Rs.49,81,089/- in 10 Equated Monthly Instalments instead of 15 Equated Monthly Instalments as prayed by the petitioner. The petitioner is further directed to commence the payment from 20.06.2024 and thereafter pay the monthly instalments on or before 20th of every month. In case of default, the respondents shall be at liberty to take coercive action as permitted in law.

In view of the above, these writ petitions are disposed of with the above directions. In view of the order passed in W.P.No.7127 of 2024, the appeals filed before the Appellate Tribunal in so far as it relates to 7(Q) orders have become infructuous. No costs. Consequently, connected WMP is closed.

20.03.2024

dsn

Index:Yes/No

Neutral Citation:Yes/No

Speaking Order:Yes/No

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To

The Regional Provident Fund Commissioner II and the Recovery Officer,
Employees Provident Fund Organization,
Regional Office: Chennai II
No.37, Royapettah High Road,
Chennai-600 014.



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N.MALA,J.

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