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W.P.No.8224 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2024

CORAM:

THE HONOURABLE Dr. JUSTICE D. NAGARJUN

W.P.No.8224 of 2024
and
WMP.Nos.9179 & 9180 of 2024

The Management of
M/s.Futura Polyesters Limited
Rep.by its Chairman and Managing Director
Mr.Shyam B Gia
having Office at
Paragon Condominium, 3rd Floor
Pandurang Budhkar Marg
Mumbai 400 013.

... Petitioner

Vs.

- 1.The Collector
Chennai District
Collector Office Building, 4th Floor
Rajaji Salai
Chennai 600 001.
- 2.The Deputy Commissioner of Labour
O/o.Joint Commissioner of Labour-II
Chennai 6.



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3. The Tahsildhar
Thiruvatriyur
Chennai.

4.Futura Polyesters Employees Association
No.22, Thandavarayan Street, Royapettah
Chennai 600 014.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records of the impugned attachment notice Form No.5 dated 12.03.2024 issued by the third respondent, quash the same.

For Petitioner : Mr.A.Devnarenderan

For Respondents : Mr.R.U.Dinesh Rajkumar
for R1 to R3
Additional Government Pleader
Mr.J.Abdul Hadi for R4

ORDER

This Writ Petition is filed seeking Writ of Certiorari to call for the entire records of the impugned attachment notice Form No.5 dated 12.03.2024 issued by the third respondent and quash the same.



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2. It is submitted by the learned counsel for the petitioner that the petitioner Factory was started in the year 1972 at Manali. On account of various issues in the petitioner Factory, it was closed on 31.12.2012 and the same was properly intimated to the workmen concerned with due notice and the same was also intimated to the Tamil Nadu Government vide the letter dated 12.08.2013 and other respective Departments. While so, the Government of Tamil Nadu had given the permission to close down the Factory under Section 25 (O) of the Industrial Disputes Act, vide G.O.(D).No.517 Labour and Employment (A2) Department dated 17.10.2013.

3. The employees filed gratuity application before the second respondent, who is the Controlling Authority to determine the gratuity, payable to batch of 22 employees. Accordingly, the Controlling Authority computed the amount and a part payment of a sum of Rs.28,72,258/- has been paid by the petitioner on 07.06.2018. During the pendency of the above



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said proceedings, the authority completed enquiry and passed an order on 15.07.2019, directing the petitioner to pay the gratuity with 10% interest, which amounts to a sum of Rs.52,95,704/-.

4. During the pendency of the proceedings before the Controlling Authority, the petitioner has paid a sum of Rs.28,72,258/- the simple interest calculated with 10% of the amount of Rs.18,78,935/-. In the meanwhile, other employees have filed gratuity application before the second respondent to determine the gratuity payable to batch of 53 employees. On completion of enquiry, an order was passed on 26.04.2021 directing the petitioner to pay the gratuity with interest at 10% of Rs.1,10,06,479/-.

5. The third respondent has issued attachment notice dated 24.01.2024 under Section 27 of the Tamil Nadu Revenue Recovery Act, 1864, directing the petitioner to pay interest at 10% upon the gratuity amount a sum of Rs.52,95,704/- with respect to batch of 21 employees and also directed the petitioner to pay a sum of Rs.1,08,45,479/- with 15% compound interest with respect to above said 53 persons on or before 13.02.2024. Accordingly, the



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petitioner paid a sum of Rs.1,10,06,479/- vide Demand Draft on 12.02.2024, 16.02.2024 and 19.02.2024 respectively. Thereby the petitioner has paid entire gratuity amount without interest with respect to 2nd batch. Thereby the petitioner has paid entire gratuity amount as on and only interest has to be paid.

6. The third respondent has issued attachment notice Form No.5 dated 12.03.2024 under Section 27 of the Tamil Nadu Revenue Recovery Act, 1864, directing the petitioner to pay interest of 10% upon the gratuity amount of Rs.52,95,704/-. It is submitted by the learned counsel for the petitioner that the demand of Rs.5,90,73,941/- as compound interest is arbitrarily, illegal and arrived at on account of miscalculation. Thereby, sought to quash the same. As per Section 8 of the Payment of Gratuity Act, 1972, that interest shall not exceed the amount of gratuity. The learned counsel for the petitioner has also filed a memo stating that as per Section 8 of the Payment of Gratuity Act, 1972, that interest shall not exceed the amount of gratuity and thereby the petitioner is liable to pay only a sum of Rs.1,63,02,183/- as interest.



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7. The learned counsel for the respondent has reported no objection to that memo filed by the petitioner and he prepared to pay a sum of Rs.1,63,02,183/- and the same is recorded.

8. In view of the above submissions made by both sides, considering the facts and circumstances of this case, including the memo of calculation filed by the petitioner, this Writ Petition is disposed of directing the petitioner to pay a sum of Rs.1,63,02,183/- within a period of six weeks from the date of receipt of a copy of this order and on such payment, the impugned attachment notice Form No.5 dated 12.03.2024 will stand vacate.

9. With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

02.07.2024

Index : Yes / No
Internet : Yes / No
dna



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