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W.P.No.11763 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

**W.P.No.11763 of 2022 and
W.M.P.No.11220 of 2022**

M/s.Oragadam City Developers Private Limited,
No.5, Giri Road, T.Nagar,
Chennai - 600 017.
Represented by its Authorised Signatory
Mr.C.V.Lakshman

... Petitioner

Vs.

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Ministry of Labour and Employment,
Government of India,
Regional Office,
No.37, Royapettah High Road,
Chennai - 600 014.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records ending with the order dated 02.02.2022 passed by the Hon'ble Central Government Industrial Tribunal-cum-Labour Court, Chennai -600 006 in E.P.F Appeal No.70 of 2020 and quash the same and direct the said Tribunal to admit the appeal filed by the petitioner under Section 7-I of EPF & MP Act in EPFA.No.70 of 2020 without making any condition for pre-deposit.



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For Petitioner : Mr.Yogesh Kannadasan
For Respondent : Mr.K.Venkatesan
Standing Counsel

ORDER

The present writ petition has been filed challenging the conditional order passed by the learned Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Court, Chennai, dated 02.02.2022 in E.P.F.A.No.70 of 2020.

2. The petitioner Establishment has preferred the above appeal in E.P.F.A.No.70 of 2020 challenging the order of the Competent Authority dated 29.08.2019 made in CHN-1/D/25/TN/84133/Enf/Regl/19. While admitting the above appeal, the Tribunal has passed a conditional order reducing the pre-conditional deposit from 75% to 55% and directed the petitioner to deposit the same in order to admit the appeal for hearing. The petitioner without complying the said order has filed this writ petition.



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3. There is a statutory mandate to make a pre-deposit of 75% of the contributory conditions determined under Section 7A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the EPF & MP Act"). While filing an appeal before the Tribunal, the petitioner has filed an application seeking to waive the entire statutory conditional deposit of 75%. After hearing the parties, the Tribunal has chosen to reduce mandatory pre-conditional deposit from 75% to 55%.

4. The learned counsel for the petitioner submitted that if the matter is remitted back to the Competent Authority, it would enable him to make his submissions and get a favourable order. Having filed an appeal before the Tribunal and without complying the pre-deposit conditions, the petitioner cannot get direct benefit of setting aside both the impugned order as well as the order passed by the Competent Authority by way of getting any order for remand. The limited point that has to be seen is whether the impugned order is passed in a manner known to law after considering the



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submissions made by the petitioner.

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5. The learned counsel for the petitioner made a submission before this Court that the Establishment is facing financial crisis and hence, the petitioner could not comply with the condition as directed by the Tribunal. However, the petitioner has not chosen to state anything in this regard. In the order of the Tribunal, there is an observation stating that the petitioner has not stated anywhere in his waiver petition that he is facing any financial crises to comply the mandatory conditions contemplated under Section 7(O) of the EPF & MP Act.

6. Having found that the petitioner is not entitled for a total waiver as sought for, the petitioner at least should pay 55% of the pre-deposit for the matter to be remitted back to the Competent Authority.

7. However, the learned counsel for the petitioner submitted that in paragraph No.11 of the additional affidavit in his waiver petition, he has stated that the Company has incurred loss during the financial year 2012-13. It is the contention of the petitioner that he has been incurring continuous



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loss even after the financial year 2012-13.

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8. In fact, the Competent Authority passed an order under Section 7-A of the EPF & MP Act only in the year 2019. The Tribunal has considered the contention of the petitioner in a fair manner after giving reasonable reduction of pre-deposit from 75% to 55%. In fact the above order has been passed on 02.02.2022. The petitioner has successfully gained time of more than two years. Further, I do not find any infirmity or lack of appreciation by the Tribunal while passing the impugned order.

9. Hence, this Writ Petition is dismissed. However, the petitioner is given with four weeks time from the date of receipt of a copy of this order for complying the order of pre-deposit as ordered by the Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

19.10.2024

NCC: Yes / No

Index : Yes / No

Speaking Order : Yes / No



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vji

To

The Assistant Provident Fund Commissioner,
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R.N.MANJULA, J.

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