



Company Application No. 168 of 202 .
in C.P. No. 63 of 2013

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K.KUMARESH BABU, J.

This application has been filed to direct the respondent to reconsider the claim dated 19.01.2021 submitted by the applicant along with the supplementary claim dated 22.03.2023.

2. Heard Mr.M.S.Viswanathan, learned counsel for the applicant and Ms. B.Ambili, Learned Deputy Official Liquidator.

3. The case of the applicant is that there were Employees Provident Fund (hereinafter referred to as 'EPF' for short) dues of the company in liquidation and originally, a Claim Petition came to be filed by them and the same had been adjudicated, wherein the claim of the applicant had been rejected to the tune of Rs.34,31,443/- out of the total claim of Rs.78,10,954/-. He would submit that the said amount which has been rejected would relate to damages that is leviable under Section 14-B of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the EPF Act' for short). The EPF dues even under Section 14-B bear a statutory charge to the department in view of Section 11 of the EPF Act. Therefore, he would seek direction from this Court



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to direct the respondent to reconsider the claim based upon the statutory implication of Section 11 of the EPF Act.

4. However, the same is contested by the learned Deputy Official Liquidator by contending that the same is not a due that is payable by the company in liquidation and the damages would have to be waived by the department. Such waiver is available within the power vested under the EPF Act and therefore, the department can waive the said claim for damages.

5. In reply, the learned counsel appearing for the department /applicant would contend that the power is not vested with the department, it is vested with the central Board under the provisions of the EPF Act and therefore, the learned Deputy Official Liquidator, who is representing the company can take out an application before such authority.

6. I have considered the rival submissions made by the respective learned counsels. A claim petition had been filed by the department /applicant originally for a sum of Rs.78,10,954/- and further, by a supplementary claim, had claimed interest under Section 7-Q of the EPF Act for the period from 07.10.2021 to 15.02.2023. The supplementary claim is a claim that had been made after the order of winding up has been passed. Hence, I am of the view that the supplementary claim cannot be entertained. With regard to the unallowed claim



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of Rs.34,31,443/-, which relates to the damages levied under Section 14-B. It is correct as claimed by the applicant that the applicant has no authority to waive such damages. It is for the companies concerned to take out a necessary application before the authority concerned under the provisions of the EPF Act to seek waiver of such damages.

7. In such view of the matter, I am inclined to direct the learned Official Liquidator, who now represents the company in liquidation, to approach the proper authority seeking for waiver of the aforesaid amount or otherwise, the applicant would be entitled to recover the same in view of Section 11 of the EPF Act. If any, such application is made to the concerned authority, the authority shall not reject the application on the issue of limitation, since the company had gone into winding up and the same had been represented by the learned Official Liquidator at present.

8. With the aforesaid direction, the application stands disposed. No order as to costs.

23.08.2024

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