IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.35029 of 2014
and W.M.P.No.1 of 2014

M/s.Emerald Engineering Unit 2
Represented by its
Deputy Managing Director
P.Dhanraj
Having Office at 128A,
Kelambakkam-Vandalur Main Road,
Mambakkam Village, Chennai. ... Petitioner

versus

1.The Presiding Officer,
Employees Provident Fund Appellate Tribunal,
New Delhi.

2.The Regional Provident Fund Commissioner-II (PDC),
Employees' Provident Fund Organization,
Regional Office, Tambaram,
No.3, Rajaji Salai,
Chennai - 600 045. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the second respondent from attaching the petitioner's bank account No.910020029556845 with M/s.Axis Bank, Velacherry.

For Petitioner : M/s.R.Muthukrishnan
For Respondent No.1 : Tribunal
For Respondent No.2 : Mr.A.Ilangovan

ORDER

The Writ Petition has been filed seeking direction against the second respondent from attaching the petitioner's Bank Account No.910020029556845, Axis Bank, Velachery in the process of recovery of 14-B dues to be payable by the petitioner's Company towards damages assessed under Section 14-B and interest assessed under Section 7-Q of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 [E.P.F. Act].

2. Heard M/s.R.Muthukrishnan, learned counsel for the petitioner and Mr.A.Ilangovan, learned counsel for the second respondent and perused the materials available on record.

3. Even before filing this writ petition, the petitioner seems to have filed an appeal before the first respondent, in which an order was passed on 27.11.2014. In the said order, the operation of the assessment order under Sections 14-B and 7-Q is stayed on the condition that the petitioner should pay atleast the amount assessed under Section 7-Q of the E.P.F. Act. Aggrieved over the same, the petitioner has preferred this writ petition.

4. On being convinced with the arguments of the learned counsel for the petitioner that there is no Presiding Officer for the appellate Tribunal, this Court has passed an interim order by allowing the petitioner to pay a sum of Rs.10,00,000/- to the second respondent for staying the operation of the assessment order already made under Sections 14B and 7Q of the E.P.F. Act.

5. It is learnt that the petitioner had made the said payment on 31.12.2014 through a demand draft. In that case, the petitioner could have very well agitated the matter before the first respondent / appellate Tribunal and got an order in the appeal filed by him on merits. An order of liquidation has been passed in the Company Petition filed by the petitioner in C.P.No.507/IB/2017. The National Company Law Tribunal has passed an order of Moratorium and appointed Corporate Insolvency Resolution Professional and thereafter, it has also passed an order of liquidation on

30.05.2022. The petitioner has preferred an appeal before the National Company Law Appellate Tribunal in Company Appeal (AT) (CH) (INS) No.220/2022. In view of the same, the liquidation order has been stayed.

6. In view of the compliance of the interim order passed by this Court for payment of Rs.10,00,000/- for getting a stay order to stop the operation of the assessment order under Sections 14-B and 7-Q of the E.P.F. Act, I feel it is appropriate for the petitioner to maintain his appeal before the first respondent and allow him to pass an order on merits.

7. With the above observation, this Writ Petition is **disposed**. No costs. Consequently, connected Miscellaneous Petition is closed.

04.09.2024

Speaking order / Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No

sri

To

The Presiding Officer,
Employees Provident Fund Appellate Tribunal,
New Delhi.

R.N.MANJULA, J.

sri

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