IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 9358 of 2015

Central Board of Trustees, EPF Organisation

Vs.

Union of India & Ors.

For the Petitioner	:	Mr. Shiv Chandra Prasad.
For the Respondent	:	None.
Hearing concluded on	:	17.07.2025
Judgment on	:	30.07.2025

Shampa Dutt (Paul), J.:

1. The writ application has been preferred challenging the order dated 13.01.2014 in appeal being ATA No. 20(15) 2014 passed by the learned Presiding Officer, Employees Provident Fund Appellate Tribunal.

2. The case of the petitioner is that the respondent no. 3 did not deposit the dues as prescribed under the Act for the period from 05/2002 to 12/2004. Accordingly, an enquiry under Section 7A was initiated to determine the extent of the default.

3. The Regional Provident Fund Commissioner-II, Regional Office Jalpaiguri in exercise of the powers conferred upon him under Section 7A of the said Act of 1952, on consideration of the facts, submissions made and evidence adduced before him and also on the basis of the report of the Enforcement Officer had determined an amount of Rs. 46,43,536/- under Section 7A of the EPF Act and Rs. 41,60,699/- towards interest under Section 7Q of the said Act.

4. The respondent no. 3 thereafter filed an application for review under Section 7B of the Act against the order dated 30.12.2010 passed under Section 7A of the Act and the said review application was rejected by the authority on 23.05.2011.

5. The respondent no. 3 being an establishment herein filed an appeal being TA No. 20 (15) of 2014 against the order dated 30.12.2010 passed by the R.P.F.C., Jalpaiguri under Section 7A of the Act and the order dated 23.05.2011 passed under Section 7B of the Act and the notices of Recovery and arrest dated 12.03.2013 and 08.11.2013 issued by the Recovery Officer, Jalpaiguri, before the Employees Provident fund Appellate Tribunal, New Delhi.

6. The said appeal came up for hearing before the EPFAT on 13th January, 2014 and the learned Tribunal passed the order ex- parte directing as follows:-

"ORDER

Dated:- 13th January, 2014

.............Heard the submissions made by the Ld. Counsel for the Appellant. This Tribunal has consistently permitted the defaulting employers to remit the

outstanding PF and allied dues in installments keeping in view their financial condition. The decision of this Tribunal has also approved by the Hon'ble High Court of Calcutta in some cases. The Ld. Counsel for the appellant further stated that 'sickness is prevailing in the tea plantation industry. Since, the appellant is a loss making company, it is considered that the appellant be allowed to liquidate the PF dues in installments. The Ld. Advocate for the appellant as made a statement in the Open Court that the appellant is willing to liquidate outstanding determined amount in the impugned order, in installments. The request of the appellant is allowed. ***Accordingly, the appellant is hereby directed to remit the outstanding determined amount in 60 equal installments.*** *First installment be payable by the 1st March, 2014 and the subsequent installments be payable by the 1st day of every calendar month. In case, there any default in payment of due installments, the Respondent Authority is at liberty to take steps to execute the order. All the prohibitory and Attachment Orders including the Orders/notices dated 12-03-2013 and 08-11-2013 issued by the Recovery Officer, Jalpaiguri should be taken back and not enforced against the appellant. The orders issued by the respondent to attach the Bank Accounts of the appellant be taken back. In terms of the above, the present is appeal is disposed of. Copy of the Order be sent to both the parties. The file be consigned to the record room.*

Sd/-
Presiding Officer, EPFAT"

7. It is the case of the petitioner that there is no provision for grant of installment facility by EPFAT. The power to grant installment facility lies with Senior Executive of EPFO only on fulfillment of certain terms and conditions like current compliance status, undertaking to pay the dues of the outgoing members, instantly submission of bank guarantee etc.

8. The petitioner herein being aggrieved with the order granting installments to the respondent no. 3 has preferred the writ application on the ground that there being no provision for grant of installment facility by EPFAT, the said order under challenge is liable to be set aside.

9. On perusal of the materials on record and the order under challenge, this Court finds that the Employees Provided Fund, Appellate Tribunal did not interfere with the order of the authority directing payment of the outstanding dues but considering the fact that the industries was going through a sickness period and being a loss making company, granted installment in the interest of justice.

10. This Court considering the reasons provided by the officer in the order under challenge, finds that the contention of the petitioner herein that the Tribunal did not have the power to grant installment, is a mere irregularity and not an illegality and as such the order under challenge having been passed in the interest of justice requires no interference.

11. **Writ petition is accordingly dismissed.**

12. All connected application, if any, stands disposed of.

13. Interim order, if any, stands vacated.

14. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)