18.06.2025
Item No.4
Ct. No. 30
Aloke

WPA 12044 of 2025

M/s. Selvel Advertisement Pvt. Ltd.
Vs
Regional Provident Fund Commissioner & Ors.

Mr. Uddipan Banearjee
Mr. Subhrakanti Sarkar
... for the petitioner
Mr. Abhijit Bhadra
... for the respondent nos. 1 to 3

1. Affidavit-of-service filed be kept with the record.

2. The present writ application has been preferred praying for setting aside of the order dated 29th August, 2024 passed u/s 7Q of the EPF & MP Act, 1952 wherein the authority assessed the interest of Rs.23,56,105/- for the period 17.04.2016 to 27.07.2023 and recall of the recovery notice dated 30th April, 2025 wherein the authority proposed to recover an amount of Rs.61,02,882/-.

3. It is submitted by the learned counsel for the petitioner that an appeal has been preferred before the CGIT, Kolkata on 16.05.2025. The recovery officer in this case has issued a notice dated 09.05.2025, initiating the recovery proceedings.

4. It is submitted by the learned counsel for the petitioner that the appeal has been preferred on 16.05.2025 against an order passed under Section 14B of the EPF Act and this writ application has been preferred in respect of the interest assessed under Section 7Q of the Act on the said damage levied under Section 14B of the EPF Act.

5. It appears from the summon dated 08.08.2023 that summon was issued by the authority concerned for a hearing under Section 14B of the EPF and MP Act, 1952 and for payment of interest to be assessed on the said damage under Section 7Q of the Act.

6. In the said proceeding an order dated 29.08.2024 was passed under Section 14B of the Act and a separate order also dated 29.08.2024 under Section 7Q of the EPF Act was passed.

7. In ***Arcot Textile Mills Ltd. vs Reg. Provident Fund Commissioner & Ors., in Civil Appeal No. 9488 of 2013, decided on 18th October, 2013,*** the Supreme Court held:-

> *"**15.** On a perusal of the aforesaid provision it is evident that an appeal to the tribunal lies in respect of certain action of the Central Government or order passed by the Central Government or any authority on certain provisions of the Act. We have scanned the anatomy of the said provisions before. On a studied scrutiny, it is quite vivid that though an appeal lies against recovery of damages under Section 14B of the Act, no*

appeal is provided for against imposition of interest as stipulated under Section 7Q. It is seemly to note here that Section 14B has been enacted to penalize the defaulting employers as also to provide reparation for the amount of loss suffered by the employees. It is not only a warning to employers in general not to commit a breach of the statutory requirements but at the same time it is meant to provide compensation or redress to the beneficiaries, i.e., to recompense the employees for the loss sustained by them. The entire amount of damages awarded under Section 14B except for the amount relatable to administrative charges is to be transferred to the Employees' Provident Fund. (see Organo Chemical Industries and another v. Union of India and others[2])

***18.** At this stage, it is necessary to clarify the position of law which do arise in certain situations. The competent authority under the Act while determining the moneys due from the employee shall be required to conduct an inquiry and pass an order. An order under Section 7A is an order that determines the liability of the employer under the provisions of the Act and while determining the liability the competent authority offers an opportunity of hearing to the concerned establishment. At that stage, the delay in payment of the dues and component of interest are determined. It is a composite order. To elaborate, it is an order passed under Section 7A and 7Q together. Such an order shall be amenable to appeal under Section 7I. The same is true of any composite order a facet of which is amenable to appeal and Section 7I of the Act. But, if for some reason when the authority chooses to pass an independent order under Section 7Q the same is not appealable.*

***23.** Presently we shall address to the nature of the lis that can arise under this provision. There cannot be any dispute that the Act in question is a beneficial social legislation to ensure health and other benefits of the employees and the employer under the*

> *Act is under statutory obligation to make the deposit that is due from him. In the event of default committed by the employer Section 14-B steps in and calls upon the employer to pay the damages. (See: Regional Provident Fund Commissioner v. S.D. College, Hoshiarpur and others[12]). Section 7Q which provides for interest for belated payment is basically a compensation for payment of interest to the affected employees. This provision has been made to secure just and humane conditions of work as has been opined in Regional Provident Fund Commissioner v. Hooghly Mills Company Limited and others[13]. The language employed in Section 7Q provides for levy of interest on delayed payment and the rates have been stipulated. When a composite order is passed or order imposing interest becomes a part of the order or levy in any of the provisions of the Act the authority grants a reasonable opportunity of hearing to the employer/ affected party."*

8. From the materials on record it appears that the summon for hearing was a **composite summon** and, as such, even though two separate orders have been passed they have been passed on the same date. As such, the orders under Section 14B and 7 Q of the EPF Act in this case is a **composite order**.

9. Thus the petitioner is at liberty to prefer an appeal before the tribunal in respect of both orders being under Sections 14B and 7Q of the EPF Act dated 29.08.2024, which in substance is a composite order.

10. Admittedly, an appeal under Section 14B has been filed before the CGIT, Kolkata on 9th

May, 2025 as seen from the copy of the documents filed.

11. Accordingly, the writ petition is disposed of with the direction that the petitioner **shall include his** relief as prayed for in the writ application against the order passed under Section 7Q of the EPF Act on 29.08.2024, in the appeal preferred before the Tribunal.

12. The writ application is thus disposed of by granting such liberty to the petitioner, as it also appears from a notice by the authorized officer dated 30.04.2025 and the recovery officer's notice dated 09.05.2025, that one **composite notice** in respect of the execution of the order under Section 14B and interest under Section 7Q of the EPF Act has been issued.

13. **Accordingly, the said notices dated 30.04.2025 and 09.05.2025 along with orders dated 29.08.2024 passed under Section 14B and 7Q of the EPF Act, be stayed till the appeal is taken up for hearing by the Tribunal.**

14. Liberty is granted to the petitioner to pray for extension of the said order of stay before the tribunal as and when the appeal is taken up for hearing.

15. **The writ petition stands disposed of.**

16. All connected applications, if any, stand disposed of.

17. Interim order, if any, stands vacated.

18. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Shampa Dutt (Paul), J.)