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WPO/219/2025

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

DEVELOPMENT CONSULTANTS
PRIVATE LIMITED

-VERSUS-

THE UNION OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA DUTT (PAUL)

Date : 28th March, 2025.

Appearance:

Mr. Suddha Satva Banerjee, Adv.

Mr. Prantik Garai, Adv.

Ms. Sreejoyee Bose, Adv.

Mr. Nishar Dey, Adv.

.... for the petitioner.

Mr. Siddhartha Lahiri, Adv.

Mr. Madhu Jana, Adv.

...for the Union of India.

The Court: The present writ application has been preferred challenging the recovery notice dated 26th March, 2025 and other related reliefs. The recovery notice has been issued in respect of the orders passed under Section 14B read with Section 7A of the Employees' Provident Fund & Miscellaneous Provisions Act, 1952 dated 30th September, 2024 and order for payment of interest under Section 7Q of the said Act of 1952 also dated 30th September, 2024.

On hearing learned counsel for the petitioner and the learned counsel appearing for the Union of India and on considering the materials on record, it

appears that in spite of due service Provident Fund Commissioner is not represented. Affidavit of service filed in Court be taken on record.

Admittedly, appeals against the said orders under Section 14B read with Section 7A of the Employees' Provident Fund & Miscellaneous Provisions Act, 1952 are pending before the Central Government Industrial Tribunal at Kolkata being Appeal No.EPF-23 of 2024/839 dated 11th November, 2024. On perusal of the orders challenged before the appellate Tribunal it appears that the Regional Provident Fund Commissioner-II vide his order under Section 14B read with Section 7A of the Act dated 30th September, 2024 has given a calculation for imposition of damages at paragraph 20 of the order. The due date of deposit has been categorically mentioned. The delay ranges from 5 days to 270 days and interest calculated on the said amount has been ordered under Section 7Q of the Act of 1952.

The contention of the petitioner is that in spite of placing relevant documents before the authority concerned, the same were not considered in accordance with law causing prejudice to the petitioner. It is further submitted that there has been no delay, as per their records, on their part in making the said deposits, which has been erroneously not considered by the authority concerned and these facts have been challenged before the appellate authority.

Admittedly an appeal is pending before the appellate authority and **during pendency of the appeal a notice dated 26th March, 2025 has been issued by the same authority** who decided the matter under Section 14B read with Section 7A and also Section 7Q of the Act, directing the banker of the petitioner to recover the said dues.

Principles of natural justice requires that when an appeal is pending, such recovery, if permitted, shall be an abuse of the process of law and, accordingly, the said order dated 26th March, 2025 passed by RPF-II is hereby stayed till disposal of the appeal before the appellate Tribunal.

The writ application (WPO/219/2025) is accordingly disposed of with a direction that the appellate Tribunal will make all endeavour to dispose of the appeal in accordance with law expeditiously, preferably within a period of three months from the date of this order.

All parties are to act on the basis of server copy of this order.

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

(SHAMPA DUTT (PAUL), J.)