IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1605 OF 2025

Central Board of Trustees, EPF ....Petitioner
V/S
M/s. Abhinav Education Society ....Respondent

Mr. M.P. Rao, Senior Advocate with Mr. Ravi Rattesar, for Petitioner-EPF.

Ms. Samiksha Kanani, with Mr. Hanish D. Pithadia, Mr. Paresh S. Waghmare, & Mr. Shekhar S. Sasankar, for Respondent.

CORAM: SANDEEP V. MARNE, J.
DATE : 1 APRIL 2025.

P.C.:

1. This Petition is filed by the Petitioner-EPFO challenging order dated 3 September 2024 passed by the Central Government Industrial Tribunal-2, Mumbai, (**CGIT-2**) allowing the applications filed by the Respondent-Establishment for stay of recovery of amounts assessed under Section 7-Q and 14-B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (**the Act**).

2. I have heard Mr. Rao, the learned Senior Advocate appearing for Petitioner-EPFO and Ms. Kanani, the learned counsel appearing for Respondent-Establishment.

3. The CGIT-2 has considered the provisions of Section 7-O of the Act, which does not mandate deposit of any amount as a condition precedent for entertainment of Appeal against order passed under provisions of Section 14-B of the Act. Though no Appeal is maintainable against a standalone order passed under Section 7-Q of the Act, the Appeal is held to be maintainable where composite order is passed under Sections 7-A and 7-Q of the Act. In the present case apparently a composite order has been passed, which is the reason why the Respondent-Establishment has filed Appeal even against order passed under Section 7-Q of the Act.

4. There is no provision under Section 7-O of the Act for mandatory deposit of assessed amount under Sections 7-Q or 14-B of the Act.

5. At this stage, Mr. Rao would submit that even if there may not be any statutory requirement for pre-deposit for entertainment of Appeal against order passed under Sections 7-Q or 14-B of the Act, the CGIT-2 could not have stayed recovery without ensuring some deposit by the Respondent-Establishment.

6. In my view, Mr. Rao is right in contending that though there is no statutory interdict on entertainment of Appeal under Section 7-I of the Act against order passed under Section 7-Q or

14-B of the Act without any pre-deposit being made under Section 7-O of the Act, this would not mean that the CGIT-2 would grant automatic stay against recovery orders on account of absence of requirement of pre-deposit for entertainment of Appeal. Quite often the Appellate Courts while granting stay to the execution of money decree, direct deposit of decretal amount as pre-condition for stay of such money decree. Invoking that principle, the CGIT-2 could not have granted blanket stay on recovery of assessed amount under Sections 7-Q and 14-B of the Act without ensuring that there is atleast some deposit by the Respondent-Establishment. Conscious of this position, CGIT-2 has apparently considered some deposits made by the Respondent-Establishment but has erroneously branded such deposits to be 'sumptuous'. To illustrate, the amount assessed under Section 14-B of the Act is Rs.2,21,78,195/- and the amount assessed under Section 7-Q of the Act is Rs.1,08,17,908/-. Against these assessed amounts, the deposits made by the Respondent-Establishment are only Rs.2,91,376/- and Rs.2,00,000/-. Such deposits cannot be considered as sumptuous when compared to total amount assessed towards damages and interest. In my view therefore ends of justice would meet if the Respondent-Establishment is directed to deposit an additional amount of Rs.25,00,000/- as a pre-condition for operation of stay granted by the CGIT-2 vide order dated 3 September 2024.

7. It is therefore directed that the stay order passed by the

CGIT-2 on 3 September 2024 shall operate only if the Respondent-Establishment deposits with the Petitioner-EPFO further amount of Rs.25,00,000/- within a period of four weeks. In the event of default on the part of the Respondent-Establishment to make the deposit within stipulated time, the interim order passed on 3 September 2024 shall automatically come to an end. It is clarified this order is passed in unique facts and circumstances of the present case.

8. With the above directions, the Petition is partly allowed and **disposed of.**

(SANDEEP V. MARNE, J.)

SUDARSHAN RAJALINGAM KATKAM

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