IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.387 of 2023
and
WMP.Nos.355 of 2023 & 4484 of 2025

M.Sherif & Sons Pvt. Ltd.,
22, Second Line Beach,
1st Floor, Chennai – 600 001.
Through its Managing Director ...Petitioner

Vs.

The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organization,
Regional Office, 37, Royapettah High Road,
Chennai – 600 014. ...Respondent

Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records from the file of the CGIT cum Labour Court, Chennai herein EPFA No.701/2018 and to quash the order of the Presiding Officer of the EPF Appellate Tribunal in dismissing the appeal due to the non compliance of the Pre-Deposit of the 45% of the ordered amount of Rs.41,43,984/- as pre-deposit under Sec.7(O) of the EPF Act dated 06.12.2022 passed therein.

For Petitioner : Mr.R.Muthu Krishnan

For Respondent : Mr.K.Venkatesan

ORDER

Though the Miscellaneous petition in WMP.No.4484 of 2025 filed seeking to raise the attachment order passed in Notice bearing No.TN/CHN-I/RECOVERY/8F/TNMAS9593/DIV-511/REGL/2024 and to de-freeze the petitioner's current account No.12372560002725 has been listed today, in view of the consent expressed by the learned counsel on either side, the main writ petition in W.P.No.387 of 2023 filed seeking quashment of the order of the CGIT cum Labour Court, Chennai dated 06.12.2022 made in EPFA No.701/2018 itself is taken up for final disposal.

2. It is the case of the petitioner that, the petitioner is a private limited company run by the Board of Directors. Initially, the petitioner concern was a partnership firm, run under the name and style of M.Sherif & Sons, however, subsequently the same was changed into “M/s. M.Sherif & Sons Private Ltd. Company” and the above said erstwhile partnership concern was covered under the Employees Provident Fund Act, 1952 under the Code No.TN-9593. While so, upon receipt of some

false complaints alleging that the petitioner's employees were not enrolled under the EPF Act, the respondent conducted investigation through the Enforcement officer and subsequently, passed an order u/s. 7A of the EPF Act bearing No.CHN-1/DIV(ii)/TN/9593/ENF/Regl/2018-19 dated 28.09.2018, claiming a contribution to the tune of Rs.41,43,984/-. Aggrieved by the said order, the petitioner filed an appeal under Section 7-I of the EPF Act before the Appellate Tribunal in EPFA No.701 of 2018 and the Presiding officer of the CGIT cum Labour Court, Chennai passed an interim order dated 30.05.2022, directing the petitioner to deposit 45% of the total dues of Rs.41,43,984/-, despite filing of waiver petition by the petitioner. Aggrieved by the same, the petitioner filed a Writ petition before this Court in W.P.No.18485 of 2022. Pending the said writ petition, the Appellate Tribunal had subsequently dismissed the main Appeal itself, vide impugned order dated 06.12.2022, solely on the ground of non-compliance of the order of pre-deposit dated 30.05.2022. Challenging the same, the petitioner has come up with this Writ petition.

3. Though very many grounds have been raised, the learned counsel for the petitioner submitted that, pending this Writ petition, a sum of Rs.32,26,886/- has been recovered by the respondent, which is around 78% of the total claim amount and the same is above than Maximum Statutory limit of 75%. Hence, learned counsel for the petitioner submitted that, it would suffice, if this Court remands the matter back to the appellate tribunal for fresh consideration, by setting aside the impugned order dismissing the petitioner's appeal solely on the ground that the petitioner failed to comply with the order of pre-deposit dated 30.05.2022 and not on merits.

4. On the above said contentions, heard the learned counsel appearing on behalf of the respondent and perused the material documents placed on record.

5. In view of the fact that, a sum of Rs.32,26,886/- has been recovered by the respondent, which is around 78% of the total claim amount, and which fact was also not disputed by the learned counsel for

the respondent, this Court, without going into the merits of the case, is inclined to set aside the impugned order dated 06.12.2022.

6. Accordingly, the impugned order dated 06.12.2022 made in EPFA No.701/2018 is set aside and the matter is remanded to the CGIT cum Labour Court, Chennai shall take up with the appeal filed by the petitioner in EPFA No.701/2018 on file and dispose of the same on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner and the respondent.

7. With the above observations and directions, this Writ Petition stands allowed. Consequently, the connected Miscellaneous petition in WMP.No.355 of 2023 is closed and in view of the fact that the 78% of the claim amount has already been realised, the attachment which has been ordered for the purpose of realising the claim amount shall stand raised and the petitioner's Current Account No.12372560002725 with the HDFC Bank shall stand defreezed forthwith and the WMP.No.4484 of 2025 stands disposed of in the above terms. No costs.

8. Registry is directed to mark a copy of this order to the Central Government Industrial Tribunal cum Labour Court, Chennai.

17.02.2025
(2/2)

skt

NCC	: Yes / No
Index	: Yes / No
Speaking order	: Yes / No

Note to office: Issue order copy on 12.03.2025.

To:

1. The Assistant Provident Fund Commissioner,
   Employees' Provident Fund Organization,
   Regional Office, 37, Royapettah High Road,
   Chennai – 600 014.

2. The Central Government Industrial Tribunal cum Labour Court,
   Chennai.

M.DHANDAPANI, J.

skt

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