
(1994) 06 MP CK 0008

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 174 of 1984

Bilaspur Spinning Mills and Industries Ltd.

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 29-06-1994

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 14B

Citation : (1995) 1 LLJ 660

Hon'ble Judges : D.M. Dharmadhikari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.M. Dharmadhikari, J.—The petitioner as an employer challenges in this petition the order (Annexure-C) dated November 23, 1983 passed by the Regional Provident Fund Commissioner, Indore imposing on him a penalty or damages in the sum of Rs. 4,04,828.25 u/s 14B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short the Act) for default and delay in deposit of the dues under the Act.

2. The learned counsel appearing for the petitioner contends that there were strong and cogent reasons justifying the delayed payment or non-payment of the dues and the competent authority did not bestow consideration to the same and has imposed damages arbitrarily. Reference is made and reliance is placed on the decision of the Supreme Court in *Organo Chemical Industries and Another Vs. Union of India (UOI) and Others*, (*Organo Chemical Industries v. Union of India*) and decision of a Division Bench of this Court in 1989 MPLJ 51 (*Gwalior Rayon Silk Mfg.Wvg.Co Ltd. v. Regional Provident Fund Commissioner*)

3. The learned counsel appearing for the respondents has read the relevant portion of the impugned order to show that the justification shown by the petitioner/Company due to its financial difficulties and strike was duly considered and rejected by the authorities. It is also pointed out on behalf of the

respondents that u/s 14B of the Act, the authority is empowered to impose the maximum penalty to the extent of 100% of the dues in respect to which there was delay or default. In the instant case, however, the damages imposed are less than 100% and the details of which have been given in the return submitted by the respondents.

4. The question of constitutional validity of Section 14B of the Act and its scope came for consideration and decision of the Supreme Court in *Organo Chemical Industry's* case (*supra*)

5. The Supreme Court has upheld the validity of the said provisions and laid down the law that the only requirement of the Section is that the competent authority should apply its mind to the reasons or justification shown by the employer for the default and impose the damages after due application of mind and by stating reasons.

6. In the case in hand, the Regional Provident Fund Commissioner has duly considered the justification and pleas taken by the employer in not making the deposit in due time. The financial difficulties and strikes as also power cut have been duly considered and found to be no good excuse for the employer not to pay the dues in time. The power exercised by the Commissioner being within his jurisdiction and discretion u/s 14B of the Act, this Court finds no scope for interference in its jurisdiction under Article 226 of the Constitution of India.

7. For the reasons aforesaid, this petition fails and is hereby dismissed, but, without any order as to cost. The amount of security, if any, be refunded to the petitioner.