(2015) 05 CAL CK 0032

In the Calcutta High Court

Case No : Writ Petition 8959 (W) of 2015

Dalmore tea Estate Pvt. Ltd. APPELLANT

Vs

Regional Provident Fund Commissioner-1 and Others RESPONDENT

Date of Decision : 04-05-2015

Acts Referred:

Citation : (2015) 146 FLR 747 : (2015) 2 LLJ 655 : (2015) LLR 1040

Hon'ble Judges : Tapabrata Chakraborty, J

Bench : Single Bench

Advocate : Partho Sarathi Sengupta, Soumyo Majumdar, Ashis Mukherjee and Surabhi Banerjee, for the Appellant; Aparna Banerjee, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Tapabrata Chakraborty, J.

1. The subject matter of challenge in the instant writ application is an order dated 10th September, 2014 passed by the respondent No. 1 under Section 14B of the Employees'' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the said Act of 1952) and a prohibitory order dated 17th February, 2015 passed by the respondent No. 1. Mr. Sengupta, learned senior advocate appearing for the petitioner, submits that Dalmore Tea Estate was previously owned by Octavius Tea Industries Limited and that by reason of de-merger of the company, the tea estate is being managed by the petitioner on and from 17th July, 2011.

2. He further submits that challenging an order dated 18th January, 2011 passed by the respondent No. 1 under Section 7A of the said Act of 1952, pertaining to a period from 12/2006 to 12/2009, an appeal being ATA No. 870(15) 2011 was preferred by the petitioner and the same was disposed of by an order dated 3rd January, 2012 directing payment of the amount due in 36 equal installments and that subsequent thereto, a further order was passed by the respondent No. 1

under Section 7A of the said Act of 1952, pertaining to a period to 01/2010 to 11/2011 and challenging the same an appeal being ATA No. 671(15)2012 was preferred by the petitioner and the same was disposed of by an order dated 22nd August, 2012 directing payment of the amount due in 36 equal installments.

3. He further submits that alleging delay on the part of the petitioner towards remittance of contribution pertaining to a period from 12/2003 to 11/2009 an order was passed under Section 7Q of the said Act of 1952 and challenging the same an appeal, being ATA No. 667(15)2014, was preferred by the petitioner and an order was passed on 7th August, 2014 directing payment of the amount due in 60 equal monthly installments.

4. Drawing the attention of this Court to the averments made in paragraphs 5, 7 and 8 of the writ application, Mr. Sengupta submits that till the date of filing of the instant writ application, the petitioner has paid 31 out of 36 installments, in terms of the order dated 3rd January, 2012 and that the petitioner has liquidated the entire dues in installments as directed by the order dated 27th August, 2012 and the petitioner is also complying with the order dated 7th August, 2014 and is liquidating the interest amount in installments as directed.

5. He further submits that in the midst of such payments, the respondent No. 1 has passed an order dated 10th September, 2014 under Section 14B of the said Act of 1952 directing payment of an amount of Rs. 2,06,82,454/- and that subsequent thereto a prohibitory order has been passed by the respondent No. 1 on 17th February, 2015.

6. Mr. Sengupta submits that the petitioner has although out acted in a bona fide manner and despite its poor financial condition, the petitioner has complied with the orders passed by the learned Appellate Tribunal.

7. He further submits that the petitioner is ready and willing to pay the amount of Rs. 2,06,82,454/- as directed to be paid by the order dated 10th September, 2014 but in the backdrop of the facts he prays for grant of installments towards payment of the said amount of Rs. 2,06,82,454/-.

8. Ms. Banerjee, learned advocate appearing for the respondents has not disputed the submissions of Mr. Sengupta as regards compliance of the orders dated 3rd January, 2012, 22nd August, 2012 and 7th August, 2014 passed by the learned Appellate Tribunal.

9. I have heard learned advocates appearing for the respective parties and I have considered the materials on record.

10. In the conspectus of the facts, particularly taking into account that there has been a sincere endeavour on the part of the petitioner to liquidate the dues and to maintain the establishment which presently provides employment to 1213 number of employees, I am of the opinion that an opportunity is required to be given to the petitioner to pay back the amount of Rs. 2,06,82,454/- through appropriate installments.

11. Accordingly, I direct the petitioner to pay the entire amount of Rs. 2,06,82,454/- as determined by the respondent No. 1 under Section 14B of the said Act in 30 (thirty) equal monthly installments, commencing on and from the month of April, 2015. The first of such installment for the month of April, 2015 shall be paid by the petitioner within 20th May, 2015 and thereafter the petitioner shall continue to pay the other installments, month by month, within the 10th of the month, following the month, on which it becomes due and payable.

12. The respondents are directed not to give effect to the prohibitory order dated 17th February, 2015 till 20th May, 2015 and in the event the first installment is paid by the petitioner within 20th May, 2015, as directed, the respondents shall immediately withdraw the said prohibitory order.

13. It is further made clear that in the event of any default towards payment of the installments by the petitioner as directed by this Court, the respondents would be at liberty to take appropriate steps against the petitioner, in accordance with law.

14. With the above observations and directions, the writ application is, accordingly, disposed of.

15. There shall, however, be no order as to costs. Urgent Photostat certified copy of this order, if applied for, be handed over to the parties on compliance of necessary formalities.

