(2014) 03 KAR CK 0172

In the Karnataka High Court

Case No : Writ Petition Nos. 5513 and 5553 to 5571 of 2014 (L-PF)

Lohith H.R. Services Private Limited — APPELLANT

Vs

The Regional Provident Fund Commissioner-1 — RESPONDENT

Date of Decision : 06-03-2014

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 14-B, 7-Q, 8-F

Citation : (2014) 3 AKR 345 : (2014) 3 KarLJ 488

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : P.S. Dinesh Kumar, Advocate for the Appellant; B. Pramod, Advocate for the Respondent

Judgement

Ram Mohan Reddy, J.—The petitioner, an establishment covered under the Employees'' Provident Funds and Miscellaneous Provisions Act, 1952 (''the Act'' for short) and the scheme framed thereunder suffered an order dated 19-12-2013, Annexure-D, u/s 14-B of the Act by which damages of Rs. 17,85,543/- was determined for delayed payment of contribution followed by the demand letter of even date Annexure-E u/s 7-Q of the Act for payment of Rs. 33,84,633/- as interest on the delayed payment of contribution for the period October 2004 to August 2013, the recovery of which was sought to made by way of an orders of attachment u/s 8-F of the Act dated 10-1-2014, Annexures-F and G. Hence this petition. As regards the order Annexure-D, learned Counsel for the petitioner submits that an appeal pending before the Employees Provident Fund Appellate Authority, New Delhi is listed for admission on 27th May, 2014 along with an application for stay. If that is so, then the petitioner cannot maintain parallel remedies and must pursue the appeal remedy in which, it is needless to state, if the application is pressed, it is for the Appellate Tribunal to consider the same and pass orders and until such time the respondent is directed not to take coercive steps.

2. With regard to demand for payment of Rs. 33,84,633/- towards interest u/s 7-Q of the Act, Annexure-E, there being no dispute over the delay in remittance of the contribution during the period October 2004 to August 2013, the payment of interest is a statutory liability which the respondents are entitled to recover. Therefore, there is no illegality in the exercise of power u/s 7-Q of the Act for recovery of interest. Sri P.S. Dinesh Kumar, learned Counsel for the petitioner, submits that if there are any calculation errors in the amount of interest demanded, in that event, petitioner be permitted to make representation. If petitioner were to make a representation, there is no reason to believe the respondent would not consider and pass orders in accordance with law.

3. Learned Counsel further submits that regard being had to the fact that the establishment is in doldrums and its business activity having reduced considerably, petitioner be permitted to make payment towards interest in six monthly equated installments. However, learned Counsel for the respondent would maintain that neither the Act nor the scheme provide for payment of interest in installments.

4. Given the situation that there is difficulty in collecting the petitioner''s business receipts, as aired by the learned Counsel, ends of justice would be met by directing the respondent to receive Rs. 33,84,683/- in six monthly equated installments, the first of which to be made by the petitioner on or before 31st March, 2014 and the rest on or before the 30th day of every succeeding month. Petitions are ordered accordingly.

