
(2002) 05 RAJ CK 0033
In the Rajasthan High Court
Case No : .C.M.A. No. 139 of 1990

Venkatesh Co. Ltd.

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 30-05-2002

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 1(3), 7A

Citation : (2003) 96 FLR 769 : (2003) 1 LLJ 227 : (2002) WLC 720

Hon'ble Judges : Shashi Kant Sharma, J;M.R. Calla, J

Bench : Division Bench

Advocate : R.K. Kala, for the Appellant; Narendra Jain, for the Respondent

Final Decision : Dismissed

Judgement

1. This appeal u/s 18 of the Rajasthan High Court Ordinance out of the SBCWP No. 594/1989 i.e. Venktesh Co. Ltd. Didwana v. Union of India and Ors. The learned single Judge by his common judgment and order dated January 12, 1990 had decided these writ petitions including the writ petition No. 594/89 and it is this common order dated January 12, 1990 which has been made the subject matter of challenge in this appeal before us.

2. These petitions were filed in the matter of Employees Provident Funds and Misc. Provisions Act, 1952 and the prayer was made against the orders dated April 6, 1998 etc. as had been passed by the Regional Provident Fund Commissioner, Jaipur and a direction was sought against the respondent No. 2 to treat the petitioner company as a decovered unit and to release it from the statutory obligation of depositing the amount of provident fund under the Act in response of employees.

3. The basic order under challenge was the order of April 6, 1985. The writ petition against this order dated April 6, 1985 was filed on February 21, 1989.

4. We agree with the view taken by the learned single Judge that there cannot be any dispute that one who has the power to exempt any company from the

provisions of the Provident Fund Scheme also has the power to withdraw the said exemption. It is very clearly mentioned in para 10 of the judgment that a notice was given to the petitioner company for the withdrawal of the exemption and only thereafter under detailed order dated March 18, 1978, the grant of exemption was withdrawn. For that purpose the learned single Judge has rightly held that the petitioner had no case. The earlier writ petitions which had been filed by the Laxmi Salt Company Pvt. Ltd. etc. were dismissed on September 3, 1985 and special appeal filed against the order dated September 3, 1985 had also been dismissed.

5. The learned single Judge therefore rightly held that the coverage of the petitioner company under the head "trading", "commercial" was not open to challenge even if there was no express mention to that effect in the order dated September 3, 1985. The only question which remained to be considered was as to whether the petitioner who did not come to this Court earlier and did not challenge the order dated April 6, 1985 can now challenge this order in the year 1989 by way of filing the writ petition. By the order dated April 6, 1985 all the appellants including the present appellant petitioner were advised to report compliance under the provisions of the Act as a single unit. This order even if it was meant for the period upto 1983 was not challenged by the petitioners at that time. The challenge was made only in the year 1989. The learned single Judge, therefore, rightly held that under Sub-section (3) of Section 1 of the Act, the petitioner could not now challenge after lapse of more than 4 years more so when they have been clubbed with the other companies and challenge to the aforesaid order at the instance of Laxmi Salt Company did not survive. The notice for determination of amount u/s 7-A of the Act had been issued and there is no scope to dispute that the Regional Provident Fund Commissioner, Rajasthan, Jaipur has the power to determine such amount u/s 7-A after notice to the establishment. Learned counsel for the appellant has argued before us that no steps were taken by the respondents after passing of the order by the learned single Judge. Even if that be so there is no ground for setting aside the order passed by the learned single Judge more particularly when the learned counsel for the respondents Mr. Narendra Jain has pointed out that the amount is being regularly deposited under this order by the petitioner and all other concerned companies.

6. There is no force in this appeal and same is hereby dismissed.