

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1

MUMBAI

Present
Smt.Pranita Mohanty

M/s. ... Ganesh Sahakari Sakhar Karkhana Ltd. .. Appellant
Vs

Assistant Provident Fund Commissioner ... Respondent
Nashik

Presence:

For the Appellant : Mr.V.N.Upadhye, Adv.

For the Respondent : Mr. Suresh Kumar, Adv.

ORDER

This order is for admission of the appeal and prayer made for a direction of interim stay on the execution of the impugned order till disposal of the appeal.

Notice being served the learned counsel for the Respondent appeared and participated in the hearing.

On behalf of the appellant, it is submitted that it is co operative society duly registered under the co operative society Act and engaged in manufacture of sugar from sugarcane. Being provided with the PF Code

no, it was depositing the statutory contribution of it's employees regularly. For the loss in business and crunch in cash flow , it could not pay the salary of it's employees for the month of April 1996 and onwards in time and also defaulted in timely deposit of the PF contribution. Summon dt 13/11/2018 was served being issued by the Respondent and the establishment was called upon to show cause as to why the damage u/s 14 B shall not be assessed. A calculation sheet was provided with the summon. The establishment appeared before the commissioner and disputed the amount proposed and by filing the statement showing loss suffered by the establishment explained the mitigating circumstances behind the delay. But the commissioner without considering the submission and without giving any finding on the mensrea passed the impugned orders in which Rs 38,71,410/- and Rs 118,97,035/- have been assessed as damage and interest respectively.

It has been stated by the appellant that said orders are composite in nature as a common notice was sent and a common proceeding was held. It is also submitted that post of the presiding officer was vacant and the Respondent was threatening of recovery action. Hence the appellant had approached the Hon'ble High Court of Bombay by filing a writ petition and the Hon'ble court by order dt 25th March 2022, directed the appellant to deposit Rs 17,30,230/- as a pre condition against any coercive action by the Respondent in respect of the impugned order. By filing a photo copy of the demand Draft showing deposit of the amount as directed the appellant has prayed for admission of the appeal.

The learned counsel appearing for the respondent fairly conceded that he has no objection for admission of the appeal and stay on execution of the impugned orders.

Perusal of the record shows that the appeal has been filed within the prescribed period of limitation. There being no other defect, the appeal is admitted and in view of the order passed by the Hon'ble HC the respondent is directed not to take any recovery action against the appellant in respect of the impugned orders till disposal of the appeal. List the matter on 9/12/22 for filing of reply by the Respondent.


PRESIDING OFFICER

CGIT-1 MUMBAI