

Delhi High Court - Orders

M/S Himgiri Automobiles Pvt. Ltd vs Regional P.F. Commissioner-Ii, ... on 28 May, 2020

SINDHU KRISHNAKUMAR

28.05.2020 19:24

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 3243/2020 & CM APPLs. 11296-98/2020
M/S HIMGIRI AUTOMOBILES PVT. LTD. Petitioner
Through: Mr. S. P. Arora and Mr. Rajiv Arora,
Advocates. (M:9899233114)
versus

REGIONAL P.F. COMMISSIONER-II,
DELHI (EAST) Respondent
Through: Mr. Rajesh Kumar, Ms. Santwana
Aggarwal and Mr. Ravi Rai,
Advocates.

CORAM:
JUSTICE PRATHIBA M. SINGH
ORDER

% 28.05.2020

1. This hearing has been held through video conferencing.
2. The present petition has been filed by M/s. Himgiri Automobiles Pvt. Ltd. challenging the order dated 5th February, 2020 passed under Section 7Q of The Employees' Provident Funds and Miscellaneous Provisions Act, 1952. The said order has been impugned on various grounds, including that the Petitioner was never given an opportunity to present its case.
3. Mr. Arora, ld. counsel for the Petitioner, has taken the Court through the speed posts, notices and tracking reports to show that in fact, when the hearing was fixed on 27th December, 2019 the notice itself was dispatched by the Commissioner only on 26th December, 2019 and was received post the hearing.
4. This petition requires consideration. By the impugned order dated 5th February, 2020 the interest under Section 7Q has been determined. The order records that repeated opportunity was given to the Petitioner to appear in the matter but the same is not borne out from the record. Further by order dated 26th February/4th March, 2020 the Petitioner's bank accounts have been attached. The grounds of challenge are several. This Court is of the opinion that on a prima facie consideration of the records the Petitioner has not been heard and there is also a serious dispute as to the amount of interest payable. However, owing to the various grounds that have been raised and discrepancies in the issuance of the notice, as also the person who has sent the notice on behalf of the Commissioner, a prima facie case is made out for stay. Attachment of bank accounts is an order which can cripple industries and could damage the functioning of the Petitioner. Accordingly, the

impugned order dated 5th February, 2020, as also the order dated 26th February/4th March, 2020, shall remain stayed. The Respondent shall ensure that de-freezing of the bank accounts of the Petitioner is given effect to without any delay.

5. Arguments have been heard in part on the last date i.e. 26 th May, 2020. Mr. Rajesh Kumar, ld. counsel for the Respondent, wishes to file a reply which is stated to be under objections. Let the reply be brought on record. Rejoinder be filed within two weeks. In the meantime, the Petitioner shall also place on record the challans showing the deposits for the period of April, 2012 to September, 2019.

6. List on 22nd June, 2020 for hearing.

PRATHIBA M. SINGH, J.

MAY 28, 2020 dk/T