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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 252/2022**

KIRLOSKAR PNEUMATIC COMPANY LTD. Petitioner

Through: Mr. Siddharth Dias, Advocate.

versus

ASSISTANT PROVIDENT FUND COMMISSIONER

..... Respondents

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **06.01.2022**

1. This hearing has been done through video conferencing.

WP(C) 252/2022 & CM APPL. 724/2022

2. This petition challenges the impugned order/judgment dated 25th October, 2021 in **ATA No. 394(16)2009** titled **M/s Kirloskar Pneumatic Co. Ltd. v APFC, Faridabad** passed by the Id. Central Government Industrial Tribunal cum Labour Court- II, Rouse Avenue, District Court Complex, Delhi (*hereinafter "CGIT"*) upholding the demand under Section 7Q and Section 14B of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (*hereinafter "Act"*).

3. The case of the Petitioner is that the original demand under Section 7A which was made by the Respondent/EPFO was challenged before this Court and vide order dated 22nd October, 2010 in **WP(C) 7764/2010** titled **Kirloskar Pneumatic Company Limited v Employees Provident Fund Appellate Tribunal** passed by this Court, the demand was stayed. It is submitted by the Id. Counsel for the Petitioner that the order of the High



Court dated 22nd October 2010 has not been considered by the CGIT in the impugned order. Ld. Counsel further submits that the Petitioner had deposited a sum of Rs.10 lakhs as a condition for stay of the order of the EPFO directing the Petitioner to pay Rs. 17,94,812 and 21,05,465/- under Sections 7Q and Section 14B, which is already lying deposited with the CGIT.

4. The advance copy of the present petition is stated to have been has been served upon Mr. Keshav Mohan, was the standing counsel, who is stated to have passed away due to Covid. Accordingly, issue notice to Mr. Shivanath Mahanta, Id. Counsel for the EPFO. Counter affidavit be filed within four weeks. Rejoinder, thereto, be filed within two weeks thereafter.

5. This Court is of the view that since the amount of Rs. 10 lacs is lying deposited with the CGIT and this petition requires consideration as the main demand itself has been stayed, the said amount is sufficient to secure the amounts due in these writ petitions, at the interim stage. The amount of Rs. 10 lakhs shall be retained in a Fixed Deposit by the CGIT. In the meantime, the impugned order shall remain stayed during the pendency of the present petition. It is further directed that no recovery proceedings shall be initiated consequent to the demand under Section 14B and 7Q against the Petitioner.

6. A copy of this order be also communicated to the Registrar, CGIT-cum Labour Court - II, Rouse Avenue, District Court Complex, Delhi for compliance of directions for keeping a sum of Rs. 10 lakhs in Fixed Deposit.

7. List before the Registrar on 28th March, 2022.

8. Let the W.P.(C) 7764/2010 be also listed along with the present petition on the next date of hearing so that the petitions can be considered in a comprehensive manner. List before the Court on 18th May, 2022 along



with WP(C) 7764/2010.

9. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as the certified copy of the order for the purpose of ensuring compliance. No physical copy of orders shall be insisted by any authority/entity or litigant.

PRATHIBA M. SINGH, J

JANUARY 6, 2022

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