IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2015

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

Writ Petition No.32956 of 2015

and M.P.Nos.1 and 2 of 2015

M/s.Perfect Vending India Private Limited
by its Managing Director
Mr.Sanjeev Mohan ... Petitioner

vs.

1.The Authorized Officer / Assistant
Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub Regional Office, Ambattur,
R-40, A-1, TNHB Shopping-Cum-Office
Complex,
Mogappair Road, Mogappair East,
Chennai-37.

2.The Branch Manager,
State Bank of India,
No.121, 3rd Avenue Road,
Anna Nagar (West), Chennai-40. ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus to call for the records of the impugned communication of the first respondent herein comprised in TNAMB / TNAMB0066362000 / 7A / TNAMB1230 dated 22.9.2015 addressed to the second respondent herein directing the attachment of the Bank account of the petitioner company for realization of the alleged dues of the petitioner company and to quash the same and consequently direct the second respondent herein to permit the petitioner to operate their Bank account maintained with the second respondent bank.

For Petitioner : Mr.N.Viswanathan

For Respondents : Mr.T.R.Sundaram,
for R.1
Mr.P.D.Audikesavalu,
for R.2

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner company was incorporated in the year 2006 and nearly 450 persons were employed and due to the financial mis-management and improper planning of the erstwhile management, it was at the verge of closure during the year 2013. Being a minority shareholder of the company, the petitioner was forced to take over the company in the year 2013 to ensure its survival and also in the interest and welfare of the employees. The petitioner came to know that there were very many attachment letters and orders from various departments such as Employment State Insurance Corporation, Sales Tax and Service Tax. With great difficulty and due to sincere and proper steps, the company had been able to survive without winding up. Thereafter, the petitioner has paid the outstanding dues pertaining to provident fund for the period between 2011 to 2015 even without collection of the contribution from the employees. The petitioner has also given the details in para 8 of the affidavit and the same is extracted hereunder:-

Month	2011-12	2012-13	2013-14	2014-15	Total
April	188765.00	177089.00	117495.00	103881.00	587230.00
May	183673.00	178209.00	118071.00	98452.00	578405.00
June	179002.00	172042.00	118889.00	101881.00	571814.00
July	177412.00	170304.00	114583.00	99773.00	562072.00
August	183235.00	160358.00	109632.00	103881.00	557106.00
September	184683.00	156324.00	108080.00	107082.00	556169.00
October	192387.00	160073.00	110326.00	102591.00	565377.00
November	193306.00	156746.00	108380.00	89660.00	548092.00
December	192199.00	136556.00	108694.00	92841.00	530290.00

Month	2011-12	2012-13	2013-14	2014-15	Total
January	191142.00	129123.00	108701.00	93980.00	522946.00
February	189514.00	122847.00	103618.00	90381.00	506360.00
March	181581.00	120033.00	104589.00		406203.00
Grand total	2236899.00	1839704.00	1331058.00	1084403.00	6492064.00
	P.F.Interest and Damages paid				778093.00
	Total paid				7270157.00

3. Learned counsel appearing for the petitioner submitted that in response to the summon under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, the petitioner appeared and showed the records to show that the company is scrupulously complying with all the legal requirements. But, in spite of the same, the impugned order came to be passed calling upon the petitioner to pay a sum of Rs.28,17,718/- and directing the second respondent not to permit the petitioner to operate the account. Learned counsel appearing for the petitioner would further submit that on account of the said order, the petitioner is not in a position to carry on day to day operation of the company and also unable to pay its employees the salary / wages. Hence, to review the said order, the petitioner company has also filed a review application under Section 7-B(1) of the said Act. Thus, he prays for appropriate orders.

4. The Court heard the submissions of Mr.T.R.Sundaram, learned counsel, who accepts notice on behalf of the first respondent and Mr.P.D.Audikesavalu, learned counsel who accepts notice on behalf of the second respondent.

5. Though the petitioner prayed for a larger relief, in the light of the above facts and circumstances of the case, this Court directs the first respondent to take up the review application filed by the petitioner under sub-Section (1) of Section 7-B of the Employees' Provident Fund and Miscellaneous Provisions Act, if the papers are otherwise in order and pass orders on merits and in

accordance with law, within a period of six weeks from the date of receipt of a copy of this order and till then, the impugned order, which is the subject matter of challenge in this writ petition, shall be kept in abeyance. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

sbi

To

1.The Authorized Officer / Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub Regional Office, Ambattur,
R-40, A-1, TNHB Shopping-Cum-Office Complex,
Mogappair Road, Mogappair East,
Chennai-37.

2.The Branch Manager,
State Bank of India,
No.121, 3rd Avenue Road,
Anna Nagar (West), Chennai-40.

2 ccs to Mr.N. Viswanathan, Advocate, Sr. 57194
1 cc toMr.P.D. Audikesavalu, Advocate, Sr. 57253

W.P.No.32956 of 2015

SR (CO)
kk 19/10