

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.6639 of 2015 and

M.P.Nos.1 to 4 of 2015

Manakular Motors,
Rep. by its Managing Partner,
D.Gurumoorthi, R.S.No.31/4,
Olandai Keerapalayam,
100 Feet Road, Mudaliarpet,
Puducherry - 605 004.

.. Petitioner

Vs.

Assistant Provident Fund Commissioner (Comp),
Employees Provident Fund Organisation,
Ministry of Labour and Employment,
Government of India, Sub Regional Office at
No.101, 100 Feet Road,
Cholan Nagar, Olandai Keerpalayam,
Puducherry - 605 004.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records relating to order dated 9.1.2015 made in No.TBM/SRO/PCY/PC/1389/Comp/Div I/7A-Order/2015 and consequential order dated 6.2.2015 made in TBM/SRO/PONDY/PC/1389/DIV-I/Comp/2015 and further order dated 27.2.2015 made in TBM/SRO/PONDY/PC/1389/DIV-I/Comp/2015 passed by the respondent and quash the same and consequently allow the petitioner to pay the balance total outstanding dues as per instalment facility circular dated 11.2.2014 made in No.RRC/28(23)06/BIFR/23781 issued by the Employees Provident Fund Organisation, New Delhi.

For Petitioner

.. Mr.R.Thiagarajan

For Respondent

.. Mr.J.Sathyanarayanaprasad

ORDER

Heard the learned counsel appearing for the petitioner and the learned standing counsel for the respondent and with their consent, the writ petition is taken up for final disposal.

2. The petitioner has challenged the proceedings initiated by the respondent under the provisions of the Employees Provident Fund Act on the ground that the petitioner committed default in payment.

3. At the time when the writ petition was entertained, the petitioner was directed to file an undertaking affidavit and the operative portion of the affidavit reads as follows:

"6. I respectfully state that due various bona fide reasons like strike of the employees, introduction of VAT in Pondicherry and consequent slump in sales, withdrawal of credit limits by bank suddenly, etc., our firm was not able to pay the dues in time. I wish to state that we do not want to be a defaulter and all we want is only payment in instalments. About 120 employees and 100 vendors depend upon the firm for their livelihood for the last 15 years. Hence, I humbly pray this Hon'ble Court to permit me to pay in instalments.

7. I respectfully state that I undertake to pay the balance amount of Rs.25,16,032/- (Rupees Twenty Five Lakhs sixteen thousand thirty two only) in ten monthly equal instalments to the respondent on or before 5th of every succeeding month without default till completion of ten months period commencing from 1.5.2015. Hence I pray this Hon'ble Court to keep the attachment proceedings in abeyance till the completion of payment of instalments.

It is therefore humbly prayed that this Hon'ble Court may be pleased to record this affidavit of undertaking filed by the petitioner to pay the balance dues of Rs.25,16,032/- (Rupees Twenty Five Lakhs Sixteen thousand thirty two only) payable to the respondent in ten monthly instalments and consequently dispose of the above writ petition and pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice."

4. The learned counsel for the petitioner submitted that the petitioner has been complying with the undertaking given and seven instalments have already been remitted. In the meantime, action was initiated by the bank and therefore, he has approached this Court.

5. In the light of the fact that the petitioner has already filed an undertaking before this Court and he is remitting the amount in instalments without default, this Court is of the view that the same

position should be allowed to continue until the petitioner clears the entire dues in 10 instalments commencing from 01.05.2015. So far as the current dues are concerned, the petitioner management is bound to pay the same.

6. Accordingly, the Writ Petition is disposed of, by placing the affidavit of undertaking on record and by directing the petitioner to comply with the instalment payments as undertaken by them without committing any default. That apart, the petitioner has also to pay the current dues which are payable under the provisions of the Act with the respondent. In the event of a default committed for a period of two months consecutively, it is open to the respondent to initiate fresh action in accordance with law. It is made clear that till the completion of the payment in instalments as ordered above, the order of attachment shall remain stayed. Consequently, connected M.P.s are closed.

Sgl

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub-Assistant Registrar

To

Assistant Provident Fund Commissioner (Comp),
Employees Provident Fund Organisation,
Ministry of Labour and Employment,
Government of India, Sub Regional Office at
No.101, 100 Feet Road,
Cholan Nagar, Olandai Keerpalayam,
Puducherry - 605 004.

W.P.No.6639 of 2015

AD(CO)

sd : 14/12/2015

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