

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 03-08-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.8641 OF 2015

M/s.Renaissance RTW Asia (P) Limited,
rep.by its Director Mr.C.Ananda Kumar,
No.1, Thennampalayam, Tirupur,
Tamil Nadu - 614 604.

Petitioner

-vs-

1. The Assistant Provident Fund Commissioner,
Employees PF Organization, Sub-Regional Office,
Bhavishyanidhi Bhavan, Dr.Balasundaram Road,
Coimbatore, Tamil Nadu-641 018.
2. The Presiding Officer,
Employees Provident Fund Appellate Tribunal,
Ministry of Labour & Employment,
Govt. Of India,
4th Floor, Core 2, SCOPE Minar,
Laxmi Nagar,
New Delhi-110 092.

Respondents

Writ Petition has been filed, praying for issuance of a writ of mandamus, directing the first respondent to implement the order, dated 15.09.2014, passed by the second respondent in proceedings bearing A.T.A.No.884 (13) of 2014.

For petitioner : Mr.S.Venkataraman

For respondent 1 : Mrs.V.J.Latha,
Central Govt.Standing Counsel.

O R D E R

By consent, the Writ Petition is taken up for final disposal.

2. The petitioner would state that it is carrying on business of manufacturing knitted and woven readymade garments since 1995. Its branches were initially allotted three separate Employees' Provident Fund (EPF) Account Numbers, namely, TN/CBE/72902, TN/CBE/72903 and TN/CBE/34439, under the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, and, subsequently, the first two accounts were surrendered due to

consolidation of the employees of the petitioner company and its branches into one, and hence the current contributions towards the EPF are remitted by the petitioner under the third account bearing No. TN/CBE/34439.

3. The further case of the petitioner is that the first respondent, by passing three separate orders, all dated 02.01.2009, in respect of the aforesaid three EPF accounts, has imposed on the petitioner a sum of Rs.2,00,526/-, Rs.5,53,702/- and Rs.3,84,304/- respectively, aggregating to Rs.11,38,532/- towards penalty under Section 14-B of the Act for the delayed remittance of the EPF contributions. The petitioner challenged the said order by filing an appeal in A.T.A.No.666 (13) of 2009 before the second respondent, who, by an order, dated 01.10.2009, determined the quantum of damages at 5% for each instance of delayed remittance, totalling to a sum of Rs.1,62,989/-, and the excess amount of Rs.9,49,501/- is refundable/adjustable by Employees' Provident Fund Organisation. The petitioner, in this regard, submitted several representations, including the ones, dated 28.08.2012 and 20.05.2014, besides oral representations, to the first respondent, requesting to refund the said excess amount lying with him, but no orders have been passed. However, vide an order, dated 13.08.2014, the first respondent has attached the bank accounts of the petitioner and, challenging the same, the petitioner filed an appeal in A.T.A.No.884(13) of 2014 before the second respondent-Appellate Tribunal, and by the order, dated 15.09.2014, the Appellate Tribunal, disposed of the said appeal, directing the first respondent to comply with its earlier order, dated 01.10.2009, passed in A.T.A.No.666(13) of 2009, and adjust the payment already made, and impose the actual cost and charges in terms of the order passed in Writ Petition (MD) No.10336 of 2010 in Sitalakshmi Mills Ltd. v. Joint Commissioner of EPF. The grievance of the petitioner is that in spite of such a positive order, the first respondent did not choose to take any action and hence it has come forward to file this Writ Petition.

4. Heard the submissions of Mr.S.Venkataraman, learned counsel for the petitioner; and Mrs.V.J.Latha, learned Central Government Standing Counsel, who accepted notice on behalf of the first respondent.

5. This Court, taking into consideration the limited scope of the prayer sought for by the petitioner, directs the first respondent to take into consideration the order, dated 15.09.2014, passed by the second respondent in A.T.A.No.884 (13) of 2014, and pass orders within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner.

6. Writ Petition is disposed of accordingly. No costs.
Consequently, the connected M.P.No.1 of 2015 is closed.

dixit

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Assistant Provident Fund Commissioner,
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2. The Presiding Officer,
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Ministry of Labour & Employment,
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Laxmi Nagar,
New Delhi-110 092.

+ 1 cc to Mr.S.Venkataraman, Advocate SR 40035

+ 1 cc to Mrs.V.J.Latha, Advocate SR 11142/8.9.2015

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W.P.No.8641/2015

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