

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2015

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.950 of 2015 &

M.P.Nos. 1 to 6 of 2015

Associated Cylinders and Accessories Pvt. Ltd.,
Rep. By is Director Mr.Alex Thomas,
Thirubhuvanani,
Puducherry - 605 107. Petitioner

v.

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 Keerapalayam
Puducherry - 605 604. Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to order dated 15.4.2014 made in No.TBM/SRO/PCY/PC/388/Comp/DIV-II/7A/2014 and consequential order dated 9.10.2014 made in TBM/PCY/PC/388/Div-II/Comp/8F/2014 and further order dated 12.12.2014 made in TBM/SRO/PONDY/PC/388/Comp/Div-II/2014 passed by the respondent and quash the same and consequently allow the petitioner to pay the balance total outstanding dues as per installment facility circular dated 11.2.2014 made in NO.RRC/28(23)06 / BIFR/23781 issued by the Employees Provident Fund Organization, New Delhi.

For petitioner : Mr.R.Thiagarajan

For Respondent : Mr.J.Sathya Narayana Prasad

ORDER

The petitioner has filed the above writ petition to issue a writ of Certiorarified Mandamus to to call for the records relating to order dated 15.4.2014 and the consequential order dated 9.10.2014 and further order dated 12.12.2014 passed by the respondent and to quash the same and consequently allow the petitioner to pay the balance total outstanding dues as per the installment facility circular dated 11.2.2014 issued by the Employees Provident Fund Organization, New Delhi.

2. According to the petitioner, due to severe problems faced by M/s.Suzlon Energy Limited, the order for finished goods was cancelled, and materials could not be lifted and payment of bills got stuck up and it took almost two years to collect the payments. BY that time, a major portion was taken away by the Bank as interest and penal interest and therefore, they could not pay any amount to the creditors and the dues to the departments and the company has become financially sick. Further, the petitioner company submitted that due to the said bona fide reasons, they have not remitted the provident fund dues to the respondent and were in arrears since April 2011. The respondent by its order dated 15.4.2014, directed the petitioner company to remit the outstanding dues of Rs.30,52,525/- for the period from April 2011 to December, 2013. Out of the total amount of Rs.30,52,525/-, the petitioner company had already remitted a sum of Rs.14,85,297/- and the balance was Rs.15,67,228/-. Thereafter, during the pendency of the writ petition, the Larsen and Toubro Company has directly paid a sum of Rs.5,66,830/- to the respondent and as of today, a sum of Rs.10,20,398/- is due and payable by the petitioner to the respondent.

3. The learned counsel appearing for the petitioner company submitted that the petitioner company may be permitted to pay the outstanding dues of Rs.10,20,398/- in 10 monthly installments.

4. Mr.J.Sathya Narayana Prasad, learned counsel appearing for the respondent also fairly submitted that the petitioner company may be permitted to pay the said amount in installments.

5. The petitioner has shown their bona fide by making regular payment to the respondent on several occasions. Therefore, taking into consideration the case of the petitioner and also submission made by the learned counsel on either side, I am of the view that the petitioner company can be permitted to pay the outstanding out of Rs.10,20,398/- in 10 monthly installments commencing from 01.03.2015. The petitioner company shall pay the equated installments on or before 5th of every succeeding month without any default till the completion of 10 months period commencing from 01.03.2015. It is made clear that the attachment proceedings initiated by the respondent shall be kept in abeyance till the completion of the installments. It is also made clear that in case of any default committed by the petitioner company, the respondent is at liberty to proceed against the petitioner company in accordance with law.

With these observations, the writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar
Dated:3.3.15

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 Keerapalayam
Puducherry - 605 604.

+1 cc to Mr.R.Thiagarajan, Advocate, SR.10299

+1 cc to Mr.J.Sathya Narayanan, Advocate, SR.10292.

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