

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.13812 of 2015

AND

W.P.M.P.No.27821 of 2015

ORDER:

The present writ petition is filed questioning the action of the respondents in seeking to arrest and detain the 2nd petitioner pursuant to the notice, dated 13-01-2015.

When this writ petition came up for admission, this court noticed the Division Bench judgment reported in **REGIONAL PROVIDENT FUND COMMISSIONER v. M/S.DECCAN FORAM PLASTICS PRIVATE LIMITED**^[1] and in view of that, interim stay of arrest of the 2nd petitioner was ordered and in view of the fact that attachment of the property of the 2nd petitioner was already effected, the attachment was directed to be continued. However, liberty was given to the respondent organization to take appropriate decision regarding the request of the petitioners to pay arrears in instalments.

Sri R.N.Reddy, learned Standing Counsel for respondents 1 and 2, on instructions, submits that the respondent organization is primarily concerned with arrears and it is only on account of default, even after attachment, the impugned notice was issued. He also submits that if the petitioners offer to pay the amount in reasonable instalments, the respondent organization would consider their request.

The petitioners have already stated in the affidavit that they are prepared to pay arrears in instalments and the learned counsel for the petitioners states that in view of recovery of about Rs.98,59,132/-, 18 equal monthly instalments may be granted to the petitioners for payment of the said amount.

Keeping in view the facts and circumstances of the case, the order of

arrest impugned in this writ petition is clearly contrary to the Division Bench decision referred to above and the same is accordingly set aside.

So far as the arrears are concerned, the petitioners are granted 18 equal monthly instalments as proposed by the learned counsel for the petitioners, so that the entire arrears shall be liquidated in 18 equal monthly instalments commencing from 01-10-2015 and payable on or before 10-10-2015 and successfully thereafter every month. In default of the petitioners complying with the conditions of instalments, as mentioned above, the respondents are at liberty to recover the entire amount from the petitioners in accordance with law and facility of instalments will not be available to the petitioners.

Consequently, therefore, in view of attachment of the factory and assets of the Petitioners Company already effected, there shall be no attachment of personal properties of the 2nd petitioner, as prayed for in W.P.M.P.27821 of 2015.

Accordingly, the writ petition and W.P.M.P.No.27821 of 2015 are disposed of. No costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 10-09-2015

Prv

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Learned counsel for the petitioner states that the said amount would be liquidated by paying in equal monthly instalments in about 18 months. The order of arrest is set aside following the ratio in

The writ petition is, therefore, disposed of granting instalments to the petitioner to pay arrears within 18 months commencing from 01-10-2015 payable by 10-10-2015 and successfully thereafter every month. In default of the petitioner in complying with the conditions of instalments as mentioned above, the respondents shall be at liberty to recover the entire amount from the petitioner in accordance with law and facility of instalments will not be available to the defaulting petitioner.

MP

Consequently, therefore, in view of attachment of the factory and assets of the company already affected, there shall be no attachment of personal properties of the Managing Director of the petitioner company as per for in W.P.M.P. and the said order would continue and it would be recorded as the order in the writ petition.

[\[1\]](#) 2005 (1) ALT 645 (DB)