

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.03.2016

Coram

The Hon'ble Mr. Justice T.S.SIVAGNANAM

Writ Petition No.11756 of 2016

&

W.M.P.No.10519 of 2016

Royal Info Services Private Limited
rep by its Director
K.Narasimhan
No.626, JVL Plaza
6th floor, Apartment D
Annasalai, Teynampet
Chennai-18
...Petitioner

Vs.

The Recovery Officer
Employees Provident Fund Organization
Regional Office
No.3, Rajaji Salai
Tambaram, Chennai
...Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus forbearing the respondent from taking action against the petitioner on the basis of show cause notice in TN/RO/TBM/ENF/T-6/63527/RECY/2016 dt 2.3.2016 and consequently direct the respondent to extend the time limit for the period of one year for payment of Employees Provident Fund Contribution due from the year April 2013 by considering the petitioner representation dated 14.3.2016.

For Petitioner : Mr.Karan and Uday

For Respondents : Mr.K.Ramu

O R D E R

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

2. Petitioner is a company, engaged in software development, and other allied services. The petitioner is a defaulter to the respondent-organization, as they have failed to remit the contribution, which they have recovered from the employees. The conduct of the petitioner would amount to breach of trust, as they have no semblance of right to retain the employees' contribution. The respondent organization did not take any extreme coercive steps but have given a long rope to the petitioner and from March 2014 the petitioner has been promising to clear the dues one way or the other, but all those promises are empty promises. Therefore, left with no option, the respondent has rightly issued notice to show cause as to why warrant of arrest should not be issued against the Management. At this stage the petitioner has rushed to this court.

3. The petitioner has absolutely no defence on the merits of the claim made by the respondent. Infact, the petitioner admits the entire liability together with interest and other charges. All that the petitioner seeks for some indulgence so that the entire outstanding could be cleared. As on date the dues payable by the petitioner is Rs.37,96,432/-. The past conduct of the petitioner does not infuse confidence in the mind of this Court to direct the respondent to unconditionally consider the request for payment of dues in installments, however, to test the bonafide of the petitioner to be entitled to such an indulgence, this court proposes to impose stringent conditions on the petitioner. If the petitioner complies with the said condition, then the respondent may grant indulgence to the petitioner.

4. Accordingly, without quashing the impugned proceedings or without interfering with any of the proceedings the issue initiated by the respondent organization, there will be a direction to the petitioner to pay a sum of Rs.10,00,000/- within a period of six weeks from the date of receipt of a copy of this order. If the petitioner complies with this condition then the respondent organization may consider the petitioner's request for liquidating the balance dues within six months in equal monthly installments. However, If the petitioner defaults in payment, then the respondent-organization shall proceed to arrest the persons in management of the petitioner and proceed to recover the dues by initiating other steps which are available to them under the provisions of the Act.

5. Accordingly, the writ petition is disposed of. No costs.
Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

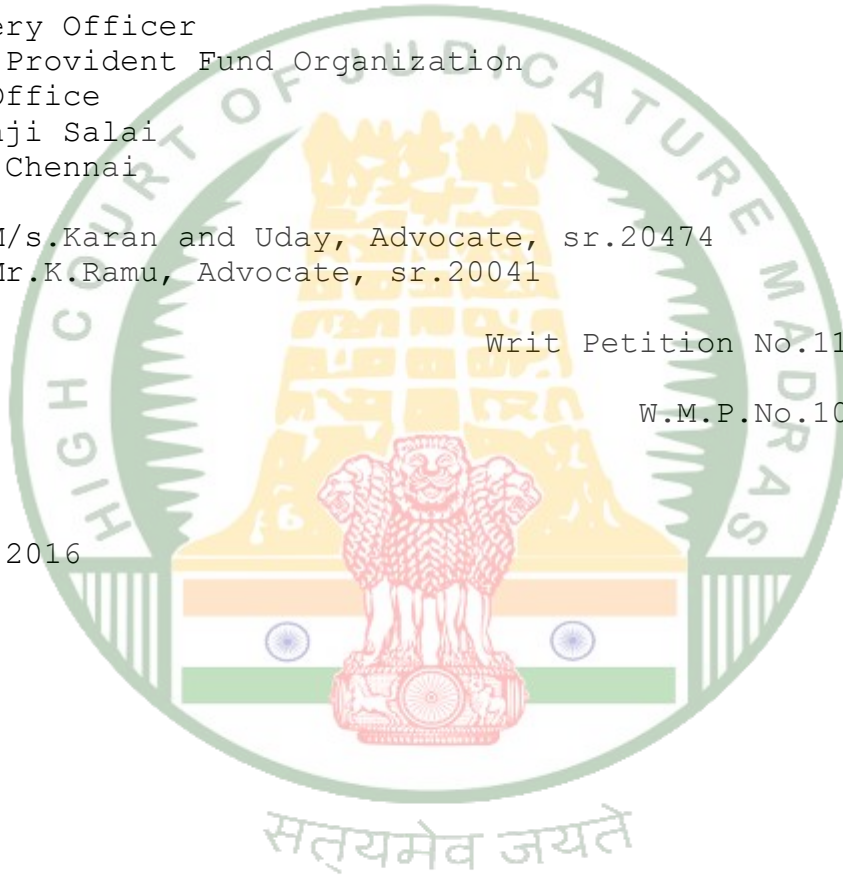
To

The Recovery Officer
Employees Provident Fund Organization
Regional Office
No.3, Rajaji Salai
Tambaram, Chennai

+1 cc to M/s.Karan and Uday, Advocate, sr.20474
+1 cc to Mr.K.Ramu, Advocate, sr.20041

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