

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2016

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.29271 of 2015

and

M.P.No.1 of 2015

Naiahaa Retail Private Limited

54, Pondi Bazaar, T.Nagar,
Chennai-600 017.

Represented by its Director Mr.R.Aravind [PETITIONER]

Vs

- 1 The Regional Provident
Fund Commissioner (Recovery)
Employees Provident Fund Organisation
Regional Office, 37, Royapetta High Road,
Chennai-600 014.
- 2 The Assistant Provident
Fund Commissioner (Recovery)
Employees Provident Fund Organisation
Regional Office, 37, Royapetta High Road,
Chennai-600 014.
- 3 The Recovery Officer
Employees Provident Fund Organisation
Regional Office, 37, Royapetta High Road,
Chennai-600 014.
- 4 Branch Manager
AXIS BANK,
113, G.N.Chetty Road,
T.Nagar, Chennai.

[RESPONDENTS]

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of Mandamus, directing the first and second respondents to consider the representations of the petitioner dated 11.09.2015 and 14.09.2015, permit the petitioner to pay the interest and damages dues in installments.

For Petitioner : Mr.G.Anand
for M/s T.S.Gopalan & Co.

For Respondents 1 to 3 : Mr.G.Gunasekar
(SPCCG)

O R D E R

Heard Mr.G.Anand, learned Counsel appearing for the petitioner and Mr.G.Gunasekar, learned Senior Panel Counsel for Central Government, accepting notice for the respondents and with their consent the Writ Petition is taken up for final disposal.

2.The petitioner has filed this Writ Petition to direct the respondents 1 & 2 to consider the representations dated 11.09.2015 and 14.09.2015 and to permit them to pay the interest and damages payable to the respondent organisation in instalments.

3.At the time when the writ petition was entertained, a conditional order of stay was granted, directing the petitioner to pay a sum of Rupees five lakhs or before 21.09.2015. It is stated by the learned counsel appearing for the petitioner that the condition has been complied and the petitioner is periodically remitting amounts towards dues, but, unable to report as to the remittances so far made by the petitioner.

4.The petitioner is a Retail Industry dealing with textile and other produces and had several stores in Chennai and according to them, 11 stores have been closed between 2011 and 2014 on account of unprecedented and unexpected loss. Therefore, the petitioner would state that they are under severe financial distress and therefore, requested the respondents 1 & 2 to appreciate their genuine problem and permit them to remit the amount in instalments.

5.The learned Standing counsel appearing for the respondents submits that there is no statutory provision by which the respondent organisation is empowered to accept payments towards interest and damages in instalments.

6.After hearing the learned counsel for the parties and perusing the materials placed on record, this Court is of the view that closing down of 11 stores in a span of less than four years, obviously shows that the petitioner Company is in financial distress. Therefore, this Court is inclined to exercise its discretion in the matter and permit the petitioner to remit the entire amounts in instalments.

7. Accordingly, petitioner is permitted to remit the entire dues in instalments and the entire amount shall be cleared on or before 30.09.2016. It is made clear that this order shall not be treated as a precedent and if any default is committed by the petitioner in not remitting /clearing the entire dues before the 30.09.2016, the respondent organisation is at liberty to take further action against the petitioner in accordance with law.

The Writ Petition is disposed of with the above observations. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

rpa

To

1 The Regional Provident
Fund Commissioner (Recovery)
Employees Provident Fund Organisation
Regional Office, 37, Royapetta High Road,
Chennai-600 014.

2 The Assistant Provident
Fund Commissioner (Recovery)
Employees Provident Fund Organisation
Regional Office, 37, Royapetta High Road,
Chennai-600 014.

3 The Recovery Officer
Employees Provident Fund Organisation
Regional Office, 37, Royapetta High Road,
Chennai-600 014.

1 cc to Mr.T.S. Gopalan & co Advocate, Sr. 1004

1 cc to Mr.K. Gunasekar, Advocate, Sr. 932

W.P. No.29271 of 2015

CTK (CO)

kk 19/1