

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2016

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P No.41458 of 2016
and
WMP Nos.35439 & 35440 of 2016

M/s.Ganesh & Co. represented by its
Sole Proprietor G.Ravi
24/A, Southpragaram Street,
Kaladipet,
Chennai - 600 019.

... Petitioner

Vs

1.Assistant Regional Provident Fund Commissioner
Employees Provident Fund Organisation,
37, Royapettah High Road,
Chennai - 600 014.

2.The Recovery Officer,
Office of the Recovery Officer,
Employees Provident Fund Organisation,
Ministry of Labour and Employment,
Govt. of India, Regional Office,
27, Royapettah High Road,
Chennai - 600 014.

3.The Branch Manager,
IDBI Bank Limited,
No.18, Avadi Road,
Karavan Chavadi,
Poonamallee, Chennai - 600 056.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records relating to impugned proceedings of the 2nd respondent herein in Ref.No.CHN/Recy/TN/51154/Reg1/2016 dated 01.11.2016 and consequential notice under issued by the 2nd respondent to the 3rd respondent as communicated by the letter of the 3rd respondent dt.10.11.2016 to the petitioner and quash the same.

For Petitioner : Mrs.Vijayakumari Natarajan

For R-1 & R-2 : Mr.K.Gunasekar,
SPCCG

O R D E R

The petitioner has challenged the order passed by the second respondent by which for non-payment of Rs.6,76,039/-, coercive steps including arrest and imprisonment of the Director of the petitioner company is proposed.

2. The petitioner company is doing fabrication work and originally was having about 200 employees and due to stiff competition and entry of MNC companies, the profit of the petitioner got considerably reduced. The number of employees working got reduced to 100, out of which only 10 employees are now working in the petitioner's own workshop.

3. Even though the petitioner company has been paying the Employees Provident Fund, there was a delay in payment and therefore, the first respondent, in his notice dated 15.04.2015, under Section 14B of the EPF Act, awarded a sum of Rs.4,27,188/- towards damages and Rs.2,48,851/- towards interest on the delayed remittance for the period from 04.01.2014 to 31.03.2015 in toto amounting to Rs.6,76,039/-. Therefore, the petitioner made representation to the first respondent seeking waiver of damages and the said request was rejected.

4. When things stand so, the impugned order has been passed calling upon the petitioner to pay the amount, failing which coercive steps including imprisonment would be taken.

5. Heard Mrs.Vijayakumari Natarajan, learned counsel appearing for the petitioner and Mr.Gunasekaran, learned counsel appearing for the respondents 1 and 2.

6. Taking into consideration the payment of Employees Provident Fund regularly by the petitioner and there is a delay in payment and slapping of damages and interest by the first respondent, this court is inclined to pass the following order -

(i) Out of Rs.6,76,039/-, initially the petitioner is directed to pay a sum of Rs.1,50,000/- to the first respondent, on or before 20.12.2016 and

(ii) the balance amount to be paid in monthly instalment of Rs.50,000/- each, commencing from January 2017, till the entire amount is discharged.

7. In view of the above order, the impugned order is set aside and the writ petition is disposed of in the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rgr

To

- 1.The Assistant Regional Provident Fund Commissioner
Employees Provident Fund Organisation,
37, Royapettah High Road, Chennai - 600 014.
- 2.The Recovery Officer,
Office of the Recovery Officer,
Employees Provident Fund Organisation,
Ministry of Labour and Employment,
Govt. of India, Regional Office,
27, Royapettah High Road,
Chennai - 600 014.

+1cc to Mr.S.Natarajan, Advocate, S.R.No.69511

सत्यमेव जयते

W.P No.41458 of 2016

VSN(CO)
CA(30/11/2016)

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