

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.3426 of 2017

M/s Mccoy Clothing (P) Limited  
NC Complex, 84, Rajaji Salai  
Tambaram West, Chennai 600 045  
rep by its Manager-HR & Admn  
Mr.K.Ramanathan .. Petitioner

-vs-

The Regional Provident Fund Commissioner-II (C&R)  
Employees Provident Fund Organisation  
Regional Office, Tambaram  
No.3, Rajaji Salai  
Chennai 600 045 ... Respondent

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondent to consider the representation of the petitioner dated 06.01.2017, permit the petitioner to pay principal amount towards contribution pursuant to the 7A order dated 03.06.2016 in Proceedings No.TN/RO/TBM/61576/Enf/T-4/2016 and further interest claimed vide 7Q notice dated .10.2016 in Proceedings No.TN/RO/TAM/ PDC/61575/DIV:8/7Q/Interest/2016 in monthly instalments.

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

For Respondent:: Mr.K.Ramu

ORDER

M/s Mccoy Clothing Private Limited represented by its Manager-HR & Admn., Tambaram West, Chennai has come to this Court seeking issuance of a writ of mandamus, directing the respondent to consider the representation dated 06.01.2017, to permit the petitioner to pay the principal amount towards contribution pursuant to the S.7A order dated 03.06.2016 in Proceedings No.TN/RO/TBM/61576/Enf/T-4/2016 and further interest claimed under S.7Q notice dated .10.2016 in Proceedings No.TN/RO/TAM/ PDC/61575/DIV:8/7Q/ Interest/2016, in monthly instalments.

2. The petitioner was running a manufacturing unit at Tambaram and the said unit came to be closed in the month of August, 2014 unfortunately. After two years, the petitioner was issued with the summons under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act by the respondent, which ended in a final order being passed under Section 7A of the said Act on 3.6.2016. Thereafter, it is stated that a notice under Section 7Q of the Act was issued in the month of October, 2016. Although the petitioner was able to pay a sum of Rs.23,78,789 towards the contributions for the period between September, 2013 and August, 2014, in respect of the contributions for the period between September, 2014 and August, 2015, they were unable to mobilize further funds. Therefore, the petitioner was informed to pay the principal amount which is due under Section 7A order dated 3.6.2016. In the meanwhile, a request was made by the petitioner to receive the contributions on instalment basis stating that in 12 equated monthly instalments, they will be able to clear the contributions along with interest. As the said request was not favourably looked into, the petitioner has come to this Court.

3. Mr.K.Ramu, learned counsel, taking notice on behalf of the respondent, submitted that when the petitioner has not shown their bona fide before the respondent at the time of making representation, the request of the petitioner deserves rejection.

4. But this Court is unable to reject the request of the petitioner. The reason is that out of eight units, it appears that the petitioner had cleared all the dues in respect of six units. Therefore, this Court, while sustaining the impugned proceedings passed by the respondent, directs the petitioner to clear the entire contributions with interest in eight equated monthly instalments, the first of which will commence on the tenth day from the date of receipt of a copy of this order and thereafter shall continue to make the payment on the subsequent calendar months regularly. It is made clear that if the petitioner defaults even a single instalment, it is open to the respondent to proceed against the petitioner in the manner known to law. The writ petition stands disposed of accordingly. No costs.

Sd/-  
Asst.Registrar

/true copy/

Sub Asst. Registrar

ss

To

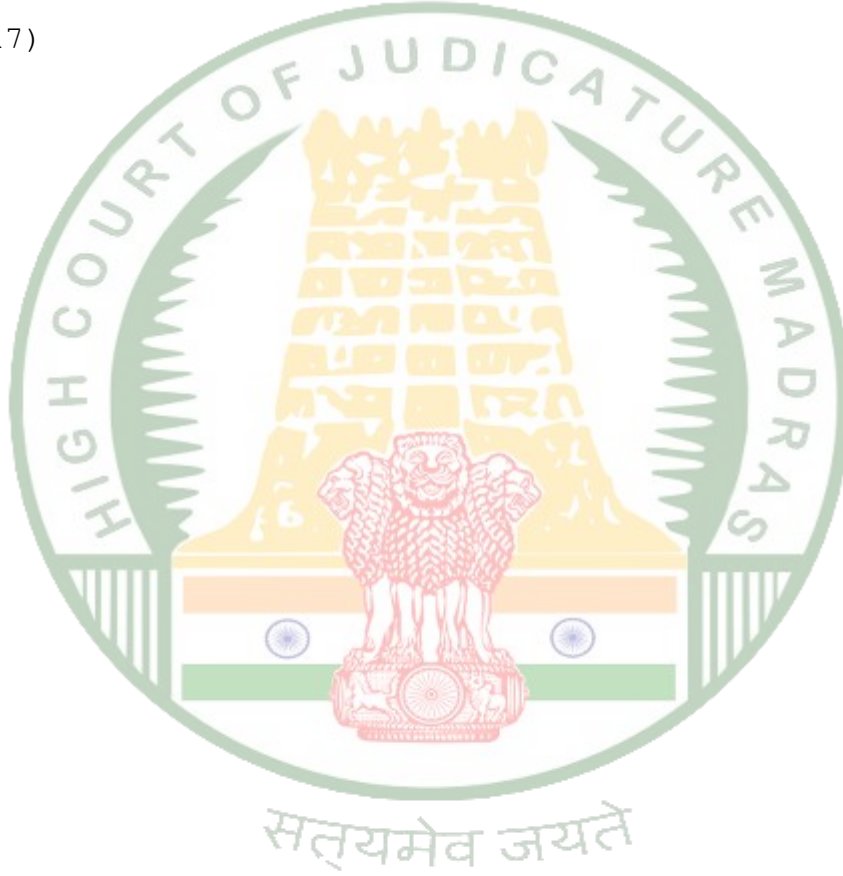
The Regional Provident Fund Commissioner-II (C&R)  
Employees Provident Fund Organisation  
Regional Office, Tambaram  
No.3, Rajaji Salai, Chennai 600 045

+1cc to M/s.K.Ramu, Sr.10898

+1cc to M/s.T.S.Gopalan&Co sr.10354

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nr(co)  
ss(2/3/2017)



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