

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.2891 of 2017

M/s Falcon Automotive India Pvt.Limited
reptd.by its Managing Director Mr.N.Venukumar
Old No.L18, New No.L45
Ambattur Industrial Estate
Ambattur, Chennai 600 058 ... Petitioner

-vs-

1. The Regional Provident Fund Commissioner
Employees Provident Fund Organisation
Ambattur, R-40, T.N.H.B.,Office Complex
Mogappair Road, Mogappair East
Chennai 600 037
2. The Assistant Provident Fund Commissioner
Employees Provident Fund Organisation
Sub Regional Office, Ambattur, R-40
T.N.H.B.,Office Complex, Mogappair Road
Mogappair East, Chennai 600 037
3. The Recovery Officer
Employees Provident Fund Organisation
Sub Regional Office, Ambattur, R-40
T.N.H.B.,Office Complex, Mogappair Road
Mogappair East, Chennai 600 037 ... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the second respondent to consider the representation of the petitioner, dated 27.01.2017 thereby seeking permission to make the balance amount of Rs.8,70,905/- in respect of the claim made by the third respondent in notice, TN/AMB/Recovery/Area-5/67914/2017, dated 04.01.2017 by instalments.

For Petitioner :: Mr.R.Munuswamy

ORDER

This writ petition has been filed by M/s Falcon Automotive India Private Limited represented by its Managing Director, making a peculiar prayer to issue a writ of mandamus, directing the Assistant Provident Fund Commissioner, Employees' Provident Funds Organisation, Sub Regional Office, Ambattur, the second respondent herein to consider the representation dated 27.01.2017, wherein permission is sought to make the balance amount of Rs.8,70,905/- in respect of the claim made by the Recovery Officer, Employees' Provident Funds Organisation, Sub Regional Office, Ambattur, the third respondent herein in notice bearing TN/AMB/Recovery/Area-5/67914/2017 dated 04.01.2017 by instalments.

2. The prayer of the petitioner is wholly misconceived. The reason is that when the Recovery Officer, Employees' Provident Funds Organisation, Sub Regional Office, Ambattur, the third respondent herein had earlier issued a prohibitory order dated 25.3.2013 to the customer of the petitioner company to attach the amount payable to the petitioner, challenging the said order, the petitioner filed W.P.No.8371 of 2013 seeking permission to make the dues by instalments and also sought for interim relief not to take any coercive action. This Court, by order dated 2.4.2013, disposed of the writ petition permitting the petitioner to make the dues in 12 equated monthly instalments. In the meanwhile, the bank issued a possession notice dated 9.12.2014 threatening to take possession of the factory and the land of the petitioner company for recovery of dues and the third respondent-Recovery Officer again sent a notice on 6.3.2015 to the petitioner demanding payment of the belated dues. As there was no response from the petitioner, a sale notice was also issued on 29.5.2015 by the bank to sell the factory premises including machineries and land for recovery of the dues. Finally the factory premises including machineries and land were sold in the public auction on 7.10.2015. Subsequently, the bank has also filed O.A.No.750 of 2015 against the petitioner for recovery of the balance amount of Rs.6.50 Crores. As there was no response from the petitioner, the Recovery Officer issued demand notices dated 27.4.2016 directing the petitioner to pay the interest and damages for the belated remittance of the provident fund contributions for the period from July, 2009 to July, 2012 and from January, 2010 to March, 2013. Even thereafter, finding no response, the Recovery Officer has issued a prohibitory order dated 4.1.2017 to the petitioner's customer company to attach the amount payable to the petitioner and remit the same to the Recovery Officer. Only after receipt of the letter dated 4.1.2017 enclosing the prohibitory order directing the petitioner's customer company, the petitioner has given a representation to the second respondent informing him that 50% of the dues were paid and for

the remaining 50%, a request was made to permit the petitioner to make the balance amount in 24 equated monthly instalments.

3. Since the petitioner has not responded to the several notices, the prayer made by the petitioner to consider his representation by the second respondent, without answering the demand notices issued by the third respondent-Recovery Officer, is wholly untenable. Therefore, the writ petition fails and it is dismissed. Consequently, W.M.P.No.2807 of 2017 is also dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Regional Provident Fund Commissioner
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Chennai 600 037
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T.N.H.B., Office Complex, Mogappair Road
Mogappair East, Chennai 600 037

+1cc to Mr.R. Munuswamy, Advocate, S.R.No.7718
+1cc to the Government Pleader, S.R.No.7821

pvs (CO)
md(15/02/2017)

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