

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.02.2018
CORAM

THE HONOURABLE Mr.JUSTICE T.RAJA

W.P.No.2775 of 2018
and W.M.P.Nos.3423 & 3424 of 2018

Vasan Health Care Private Limited,
Rep. by its Managing Director,
383, Anna Salai, Saidapet,
Chennai-15. Petitioner

Vs

1.The Regional Provident Fund Commissioner-II,
EPF Organisation,
37, Royapettah High Road,
Chennai-14.

2.The Assistant Provident Fund Commissioner,
The Recovery Officer,
EPF Organisation,
37, Royapettah High Road,
Chennai-14. Respondents

Writ Petition filed under Article 226 of The Constitution of India seeking for issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in Ref.No.CHN/TN/36534/19/8F/RECOVERY/ REGIONAL/2018 dated 09.01.2018 and quash the same and consequently direct the respondents to accept the remaining outstanding determined amount in the above impugned order in 24 installments.

For Petitioner : Mr.David Tyagaraj

For Respondent : Mr.T.R.Sundaram

For R1 & R2 Standing Counsel

O R D E R

This writ petition has been filed to quash the impugned recovery proceeding dated 09.01.2018 with a direction to the respondent to accept the remaining outstanding amount mentioned in the impugned order in 24 instalments.

2.Heard the learned counsel appearing for both sides and perused the materials placed on record.

3.Learned counsel appearing for the petitioner submitted that the petitioner company is operating 145 eye care hospitals in the name of Vasan Eye Care, in various cities across the country for the last 70 years. Since they are the largest eye care hospital, with strength more than 700 doctors and 5000 employees, a batch of Company Petition No.267 of 2015 was filed against the petitioner company for its winding up and for appointment of Official Liquidator and other relief. This Court, by order dated 21.11.2016, appointed Andhra Bank as lead banker to open a separate bank account to route all the transactions through that bank account including collections and payments exclusively for the day-to-day operation of the petitioner company. The operational creditor filed CA/1/1B/2017 under Section 9 of the Insolvency and Bankruptcy Code 2016 before the National Company Law Tribunal, Chennai, in which, an order has been passed on 21.04.2017. One of the directions was that institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority is prohibited. Therefore, the impugned order of recovery cannot be pressed into service against the petitioner. However, the petitioner is prepared to clear all the dues within 10 equated monthly instalments, commencing from first week of March 2018 and an affidavit of undertaking has also been filed on 08.02.2018.

4.Learned counsel appearing for the respondents submitted that since the petitioner is liable to pay huge amount of Rs.1,56,84,776/-, the number of instalments prayed for may be restricted to six.

5.Since the amount appears to be huge and the petitioner company is facing winding up proceedings, accepting their undertaking, this Court grants the petitioner company to pay the entire due of Rs.1,56,84,776/- in ten equated monthly instalments. It is made clear that if for any reason, the petitioner company commits any default in continuing instalments, the respondents are at liberty to proceed against the petitioner company. The frozen account of the petitioner company in Andhra Bank current A/c.No.084811100001866 is hereby defrozen.

The Writ Petition is disposed of accordingly. No costs.
Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gya

To

1.The Regional Provident Fund Commissioner-II,
EPF Organisation,
37, Royapettah High Road,
Chennai-14.

2.The Assistant Provident Fund Commissioner,
The Recovery Officer,
EPF Organisation,
37, Royapettah High Road,
Chennai-14.

+2cc to Mr.T.R.Sundram, Advocate, S.R.No.10571

+1cc to Mr.David Tyagaraj, Advocate, S.R.No.10563

W.P.No.2775 of 2018 and
W.M.P.Nos.3423 & 3424 of 2018

AD(CO)
RRK(14/02/2018)

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