

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2019

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.894 of 2019
and
WMP.No.1003 of 2019

M/s.Chowel India Private Limited,
Reptd. By its Authorised Signatory,
No.129, Mannur Village, Valarapuram post,
Sriperumbudur Taluk,
Kancvheepuram District. .. Petitioner

vs.

The Regional Provident Fund Commissioner-II,
Employees Provident Fund Organisation,
Regional Office, Ambattur,
R-40, T.N.H.B. Office Complex,
Mogappair Road, Mogappair East,
Chennai 600 037. .. Respondent

Prayer.: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus to direct the respondent to consider the representation of the petitioner, dated 28.12.2018 and to waive the claim of damages and interest made under Section 14 B and 7Q of the Employees' Provident Funds and Miscellaneous Provisions Ac, 1952 for the delayed remittance of Employees Provident Fund Contribution for the period from 06/2015 to 10/2015.

For Petitioner : Mr.R.Munusamy

For Respondent : Mr.J.Sathyanarayana Prasad
Standing counsel -EPF

O R D E R

This writ petition has filed by the petitioner praying to issue a writ of Mandamus directing the respondent to consider the representation of the petitioner, dated 28.12.2018 and to

waive the claim of damages and interest made under Section 14 B and 7Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 for the delayed remittance of Employees Provident Fund Contribution for the period from 06/2015 to 10/2015.

2. According to the learned counsel for the petitioner, the petitioner company is a private Limited company and they are manufacturing Auto Parts and Components. The petitioner is having more than 350 employees. It is pertinent to note that the petitioner make contribution of Rs.10,00,000/- towards Provident Fund from Employees and also Employer's part to the respondent every month. Due to heavy loss of business, the petitioner failed to make employees Provident Fund contribution in time, however they used to remit the same to the respondent within a reasonable time. The respondent has issued two proceedings to the petitioner i) dated 14.08.2018 under section 7 Q of the Employees Provident Fund and Miscellaneous Act 1952 for recovery of penal interest on belated remittances ii) dated 28.11.2018 under Section 14-B of the Act for levy of damages for the period from 7/2015 to 10/2015. On such receipt of the said proceedings, the petitioner has given a representation dated 28.12.2018 to the respondent to waive the claim of damages and interest for the delayed remittance of Employees Provident Fund Contribution for the period from 06/2015 to 10/2015. The respondent has not considered the representation of the petitioner. Thereafter, the petitioner came to know from their banker, viz, Axis Bank, that the respondent sent a notice to them thereby attaching the Current Account of the petitioner to deduct an amount of Rs.7,38,919/- and sent the same to the respondent. Pursuant to the said order, the petitioner's banker has deducted a sum of Rs.7,38,919/- from the petitioner's account.

3. The learned counsel for the petitioner fairly has agreed to settle the aforesaid demand amount in three instalments within a time as fixed by this court.

4. The learned Standing Counsel appearing for the respondent submitted that the petitioner shall pay a sum of Rs.8,67,077/- towards recovery of penal interest under Section 7 Q of the Employees Provident Fund and Miscellaneous Act 1952 and also shall pay a sum of Rs.18,06,411/- towards levy of damages under Section 14 B of the abovesaid Act, in totalling a sum of Rs.26,73,488/- He further submitted that the circular issued by the respondent that if the petitioner has come forward for settling by paying the amount in instalments, the same shall be considered by the respondent.

5. Taking note of the statement of both sides and also submission made by the learned counsel for the petitioner, this Court is inclined to pass the following orders:-

i) The petitioner undertakes to pay a sum of Rs.10,00,000/- as first instalment on or before 24.01.2019.

ii) Thereafter, the petitioner also to pay a sum of Rs.10,00,000/- as second instalment on or before 24.02.2019 and the petitioner shall pay the balance amount on or before 24.03.2019. If any default on the part of the petitioner complying the said condition, it is open to the respondent to proceed in accordance with law for recovery of the said amount. Till date, the respondent shall not initiate the recovery proceedings against the petitioner.

With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

kkd

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The Regional Provident Fund Commissioner-II,
Employees Provident Fund Organisation,
Regional Office, Ambattur,
R-40, T.N.H.B. Office Complex,
Mogappair Road, Mogappair East,
Chennai 600 037.

+1cc to Mr.Munuswamy, Advocate, S.R.No.2803

+1cc to Mr.J.Sathya Narayana Prasad, Advocate, S.R.No.2659

W.P.No.894 of 2019
and

WMP.No.1003 of 2019

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