

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.1162 of 2019
WMP.Nos.1322 and 1324 of 2019

M/s.Gatsby Collections (P) Limited
by its Managing Director,
Chennai-34 ... Petitioner

Vs

- 1.The Regional Provident Fund Commissioner
EPF Office, Chennai-14
- 2.The Assistant Provident Fund Commissioner (Compliance)
Regional Office, Chennai-14
- 3.Guarav Mahalwal, Assistant Provident Fund Commissioner
(Compliance)
Regional Office, Chennai-14
- 4.The Enforcement Officer, Division -22
EPF Office, Regional Office
Chennai-14 ... Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Mandamus to direct the 1st Respondent to withdraw the enquiry conducting under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, against the Petitioner Company, bearing Code No.TN/48270 for the period 2007 to 2013, pending on the file of the 1st Respondent and transfer the same to any other Assistant Provident Fund Commissioner and consequently, to direct the 1st Respondent to conduct enquiry within a time frame.

For Petitioner : Mr.M.Venkadeshnan

For Respondent : Mr.T.R.Sundaram, Standing Counsel

ORDER

By consent of the learned counsel on either side, this Writ Petition is taken up for final disposal, at the admission stage itself. Mr.T.R.Sundaram, the learned standing counsel takes notice for the Respondents.

2. This court heard the learned counsel on either side and also perused the materials placed on record.

3. The prayer in this Writ Petition is to direct the 1st Respondent to withdraw the enquiry conducting under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, against the Petitioner Company, bearing Code No.TN/48270 for the period 2007 to 2013, pending on the file of the 1st Respondent and transfer the same to any other Assistant Provident Fund Commissioner and consequently, to direct the 1st Respondent to conduct enquiry within a time frame.

4. According to the learned counsel for the Petitioner, the Petitioner had appeared for enquiry on 18.12.2018, on receipt of summons issued by the 2nd Respondent, dated 04.12.2018. On that date, the Petitioner had personally appeared before the 2nd Respondent, but, it was recorded as if the Petitioner did not appear for the enquiry on that date. Immediately, the Petitioner had filed a memo before the 2nd Respondent, stating that he had appeared before the 2nd Respondent for enquiry on that date, but it was not taken note of by the 2nd Respondent. Further summon was served by the 2nd Respondent on 20.12.2018, calling the Petitioner to appear for an enquiry on 17.01.2019. In the mean while, the Petitioner had sent a representation, dated 24.12.2018 to the 1st Respondent, making allegations against the 2nd Respondent, but no order has been passed, till date.

5. The learned standing counsel for the Respondents would submit that the allegations made by the Petitioner are without any material, but however, the said representation of the Petitioner will be considered, on merits and in accordance with law, within a time frame to be fixed by this Court.

6. Considering the facts and circumstances of the case and the submissions of the learned counsel on either side, without going into the merits of the case, the 1st Respondent is directed to consider the representation of the Petitioner, dated 24.12.2018 and pass orders, after affording opportunity to the Petitioner, on merits and in accordance with law, on or before 22.01.2019. In the mean time, it is also open to the Petitioner to appear for enquiry. It is made clear that the 2nd Respondent

shall not take any coercive action, against the Petitioner, till the disposal of the said representation of the Petitioner by the 1st Respondent.

7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected MPs are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Srcm

To

- 1.The Regional Provident Fund Commissioner
EPF Office, Chennai-14
- 2.The Assistant Provident Fund Commissioner (Compliance)
Regional Office, Chennai-14
- 3.Guarav Mahalwal, Assistant Provident Fund Commissioner
(Compliance)
Regional Office, Chennai-14
- 4.The Enforcement Officer, Division -22
EPF Office, Regional Office
Chennai-14.

+2cc to M/S.M.Venkadeshnan, Advocate Sr.3300
+1cc to M/S.T.R.Sundaram, Advocate Sr.3334

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WP.No.1162 of 2019

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