

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :03.06.2019

CORAM

THE HONOURABLE Mr. JUSTICE V.PARTHIBAN

W.P.No.13609 of 2019
and
W.M.P.Nos.13686 & 13688 of 2019

M/s.Minda Industries Limited,
Rep. By its Deputy General Manager (HR)/
Authorised Signatory, Mr.Alok Kumar
No.209, Upparapalli,
Mathagondapalli Post,
Thally Road, Hosur, Krishnagiri District. ... Petitioner

Vs.

- 1.The Regional Provident Fund
Commissioner-I (Company)
Regional Office,
S.J.Palaza, Swornapuri,
Salem - 636 004.
- 2.The Chief Manager,
State Bank of India,
Mookandapalli Branch,
SIPCOT Post,
Hosur 635 125, Krishnagiri District. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records in connection with impugned show cause notice vide CB/SLM/COM-II/PDC/90495/K-II/2019 dated 08.03.2019 on the file of the first respondent and quash the same and consequently direct the first respondent to proceed against the second respondent Bank for the delay caused as they are the person responsible for the same.

For Petitioner : Mr.V.R.Annagandhi

For 1st Respondent : Mr.R.Thirunavukarasu

ORDER

The instant writ petition has been filed seeking to quash the show cause notice issued by the 1st respondent demanding a sum of Rs.12,60,736/- and Rs.6,05,153/- towards 14 B & 7Q for belated remittances for the period from 09/2014 to 02/2015 under

the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

2. According to the Petitioner, the belated remittances were due to the default committed by the 2nd respondent Bank and it was inter alia contended that the 2nd respondent Bank is responsible for which, the petitioner cannot be held liable.

3. The Writ Petition has been filed on the ground that the 1st respondent can only proceed against the 2nd respondent for belated remittances, since the 2nd respondent did not promptly honour the arrangement between the writ petitioner and the Bank and therefore, the writ petitioner cannot be fastened with the liability for damages and interest for the so called belated remittances.

4. It is seen from the record that the 2nd respondent by their communication dated 18.09.2017 has clearly informed the 1st respondent that the delay was not on their part and therefore, they cannot be held liable for any delayed payment towards EPF contribution. When such clear stand has been taken by the 2nd respondent, it is not open to the writ petitioner to challenge the show cause notice by the placing the blame on the 2nd respondent.

5. The fact of the matter is that the writ petitioner is covered by the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and towards any delayed payment, the writ petitioner alone is liable and in case, there is any default of payment on the part of the 2nd respondent, it is always open to the writ petitioner to proceed against the 2nd respondent separately, but the writ petitioner cannot be allowed to challenge the show cause notice issued by the 1st respondent organisation only on the premise that the 2nd respondent was alone liable.

6. In the aforesaid circumstances, this Court does not find any merit in the grounds raised in the writ petition and therefore, is of the view that the writ petition, as it is, is not maintainable and accordingly, the same is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

Sgl

To

1.The Regional Provident Fund
Commissioner-I (Company)
Regional Office,
S.J.Palaza, Swornapuri,
Salem - 636 004.

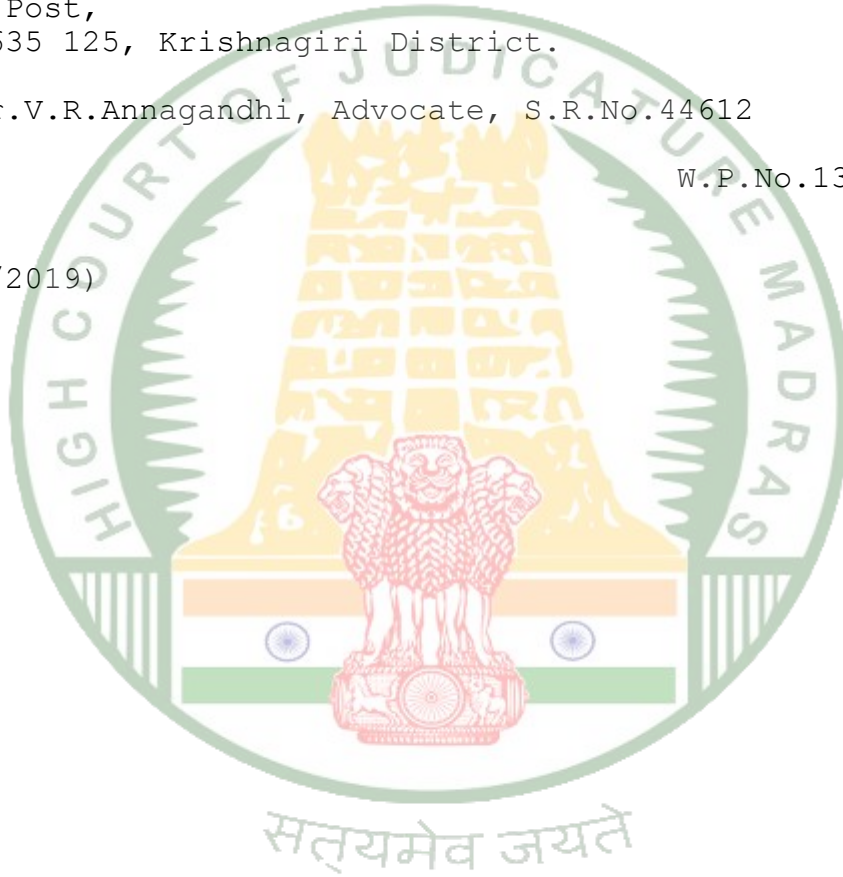
2.The Chief Manager,
State Bank of India,
Mookandapalli Branch,
SIPCOT Post,
Hosur 635 125, Krishnagiri District.

+1cc to Mr.V.R.Annagandhi, Advocate, S.R.No.44612

W.P.No.13609 of 2019

GJ(CO)

RRS (24/06/2019)



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