

THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.09.2019
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.12514 of 2018
and
W.M.P.No.14657 of 2018

Gounder & Co(P) Ltd.,
Rep.by its General Manager - Mr.K.Ponnusamy
No.102, Coimbatore Road,
Pollachi - 642 002

..Petitioner

vs

1.The Recovery Officer,
Employees Provident Fund Regional Office,
P.B.No.3875,
Dr.Balasundaram Road,
Coimbatore - 641 018

2.The Assistant Provident Fund Commissioner,
Employees Provident Fund Regional Office,
P.B.No.3875,
Dr.Balasundaram Road,
Coimbatore - 641 018

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in RRC.No.CBCBE19045/0000082/12/04/2018/502/35 dated 23.04.2018 issued by the first respondent and quash the same.

For Petitioner : Mr.S.Ezhil Raj
For Respondents : Mr.C.Kulanthaivel
for R1 & R2

O R D E R

The order dated 23.04.2018 issued under Section 8B to 8G of the Employee's Provident Fund and Miscellaneous Provisions Act, 1952 is under challenge in the present writ petition.

2. The impugned order states that within a period of 15 days from the date of receipt of the impugned notice, the petitioner should pay the amount of Rs.3,97,863/-. The writ petitioner without submitting any explanations / objections in respect of the notice issued by the respondent has chosen to file the present writ petition.

3. The learned counsel for the writ petitioner states that objections were already submitted. Under these circumstances, the competent authority has to take a decision.

4. The learned counsel appearing on behalf of the respondent states that already an order under Section 14B and 7Q of the Act was passed and challenging the said order, the writ petitioner filed an appeal before the Tribunal under Section 7-I of the Act. The said appeal is now pending for adjudication and a conditional order was passed during the pendency of the appeal by the Tribunal. In compliance with the conditional order, the writ petitioner also paid Rs.1,00,000/- (Rupees One Lakh only).

5. Thus, all the contentions raised in these writ petition are to be raised before the Tribunal for adjudication. As far as the impugned notice is concerned, it is only a notice and the writ petitioner has to submit his explanations as the writ petitioner states that already the same is submitted and it is for the respondents to consider the same and take a decision and pass orders in this regard. Even in such case, the issues raised between the parties to be adjudicated in the Tribunal in the pending appeal and the writ petitioner as well as the respondents have to submit their grounds before the Tribunal for effective adjudication of the issues. Contrarily, the writ petitioner at each and every stage cannot file a writ petition against such notice issued by a department.

6. In respect of the present writ petition, the writ petitioner is not entitled for any relief as the appeal under Section 7-I is pending before the Tribunal and the respective parties are at liberty to raise their grounds, objections etc., before the Tribunal for effective adjudication of the issues. In respect of the impugned notice, the objections submitted by the writ petitioner shall be considered by the competent authorities and an order is to be passed and all other issues can be adjudicated in the appeal now pending before the Tribunal.

7. With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

To

1.The Recovery Officer,
Employees Provident Fund Regional Office,
P.B.No.3875,
Dr.Balasundaram Road,
Coimbatore - 641 018

2.The Assistant Provident Fund Commissioner,
Employees Provident Fund Regional Office,
P.B.No.3875,
Dr.Balasundaram Road,
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+lcc to Mr.C.Kulanthaivel, Advocate sr.80351

W.P.No.12514 of 2018

sv(co)
nr 19/11/2019