

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.07.2019

CORAM

THE HONOURABLE Mr. JUSTICE V.PARTHIBAN

W.P.No.17831 of 2019
and
W.M.P.No.17229 of 2019

M/s.VADIM Infrastructure Private Limited,
Rep. By its Director R.Rajamanickam
No.18 & 19, T.V.Nagar, Mount Poonamallee Road,
Mugalivakkam, Chennai - 600 089.

... Petitioner

Vs.

1. Employees' Provident Fund Organisation
Regional Office, 37 Royapettah High Road,
Chennai - 600 014.
2. The Enforcement Officer,
Division 25
Employees' Provident Fund Organisation
Regional Office, Chennai - 600 014.
3. The Commissioner of Police
Greater Chennai Police
EVK Sampath Salai,
Vepery, Chennai - 600 007.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the 2nd respondent relating to proceeding bearing No.RO-CHN 1/EO- Divn-25/TN/MAS/53511/2019 dated 11.06.2019 and quash the same.

For Petitioner : Mr.K.Elangoo

For Respondents : Mr.V.Sundareswaran
Senior Counsel

ORDER

The present writ petition has been filed against the proceedings of the EPF Organisation dated 11.06.2019 directing the petitioner to pay Rs.25,92,363/- towards payment of EPF

contribution for the assessment period i.e., April 2016 to March 2019. Since the order has not been complied with, further notice has been issued on 11.06.2019 that in view of the employer not remitting the amount to the EPF accounts of the employees, after deducting from their wages, the petitioner has committed the offence of criminal breach of trust and directed criminal action to be taken against the petitioner. As against the said order, the writ petitioner is before this Court.

2. After notice, Mr. V. Sundareswaran, learned Senior Counsel has entered appearance on behalf of the respondents and filed a counter affidavit. According to the counter affidavit, the petitioner is due to pay the share of contribution of the employees to a tune of Rs.25,92,363/-. Since the petitioner has delayed remittance of PF dues, the Organisation was constrained to issue notice dated 11.06.2019, which is impugned in this writ petition.

3. Mr. K. Elangoo, learned counsel for the petitioner would submit that the petitioner company is facing extreme financial difficulty and unfortunately, they could not cough up funds to meet the demands of the PF Organisation. The learned counsel has fairly agreed that the amount as directed by the Organisation, is payable and the Company ought to have remitted the dues. But, due to unavoidable circumstances, because of the financial crisis of the company, the remittance could not be made entirety. While so, the Company is willing to make remittance of Rs.25,92,363/- in 20 equal monthly installments, commencing from August 2019 and urge this Court to allow this petitioner to pay the entire dues to the Organisation in 20 installments.

4. The learned Senior Counsel for the EPF Organisation would submit that since the management has committed default in complying with statutory obligation, no indulgence should be shown to the petitioner much less permission to pay the dues in 20 installments.

5. This Court considered the submissions made on behalf of the counsels on either side. In view of the difficulties expressed by the petitioner company as averred in the affidavit filed in support of the writ petition and considering the bona fide offer of the writ petitioner in undertaking to pay the dues in 20 monthly installments, while considering the present case as one of exception and despite the objection raised by the learned counsel for the Organisation, in order to secure the interest of justice, the following order is passed:

(i) The petitioner is directed to comply with the undertaking given by them in their affidavit filed in the writ petition dated 11.07.2019 and pay the PF dues of Rs.25,92,363/-

in 20 monthly installments at Rs.1,29,618/- per month, on or before 10th of every month commencing from August 2019.

(ii) In case, any default in payment of any of the installments on or before the specified date in any month, it is open to the Organisation to proceed against the petitioner in terms of the regulations.

6. In view of the orders passed as above, the Writ Petition shall stand allowed and the impugned order dated 11.06.2019 in RO-CHN 1/EO-Divn-25/TN/MAS/53511/2019 is hereby set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. Employees' Provident Fund Organisation
Regional Office, 37 Royapettah High Road,
Chennai - 600 014.
2. The Enforcement Officer,
Division 25
Employees' Provident Fund Organisation
Regional Office, Chennai - 600 014.
3. The Commissioner of Police
Greater Chennai Police
EVK Sampath Salai,
Vepery, Chennai - 600 007.

+1 cc to Mr.K.Elango, Advocate, S.R.No.59304

MP (CO)
SSM(26/08/2019)

W.P.No.17831 of 2019

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