

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.09.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.18767 of 2017

and

W.M.P.No.20288 of 2017

M/s.Devarshola Tea Factory,
Devarshola Group Central Office,
2/239, Thai Sola,
Ooty - 643 219

..Petitioner

vs

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Dr.Balasundaram Road,
Coimbatore - 641 018.

..Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in Ref.No.CB/CBE/PDC-II/CC-18/383/Interest/2017, dated 15.06.2017 passed by the Respondent and quash the same and consequently directing the Respondent to accept the remaining outstanding determined amount in the above impugned order in 24 installments.

For Petitioner : Mr.S.Gunalan

For Respondent : Mr.C.Kulanthaivel

ORDER

The order dated 15.06.2017 passed by the respondent under Section 7-Q of the Employee's Provident Fund and Miscellaneous Provisions Act, 1952 in respect of the writ petitioner Tea Factory is under challenge in the present writ petition.

2. The authorities competent / Assistant Provident Fund Commissioner, on scrutiny of records of the writ petitioner establishment, arrived a conclusion that the dues with belated remittance period from October 2015 to October 2016 is to be remitted. Accordingly, the total sum of Rs.11,04,532/- (Rupees Eleven Lakhs Four Thousand Five Hundred and Thirty Two only) was directed to be paid by the writ petitioner.

3. The learned counsel for the writ petitioner states that the Union became sick for several reasons and on account of the

financial crisis, the writ petitioner company was not in a position to pay the dues on time. However, the writ petitioner states that they are ready and willing to pay the said amount by way of instalments.

4. In view of the submission made by the learned counsel for the writ petitioner and consider the factor that the writ petitioner company is in sick, this Court is inclined to consider the case of the writ petitioner to pay the entire amount by way of instalment.

5. Accordingly, the following orders are passed:

1) The writ petitioner is directed to pay the entire demand amount of Rs.11,04,532/- (Rupees Eleven Lakhs Four Thousand Five Hundred and Thirty Two only) in twelve (12) equal instalments and the 1st instalment will commence from 1st October 2019. All subsequent monthly instalments are to be paid on or before 6th Day of every English Calendar Month.

2) In the event of failure on the part of the writ petitioner in paying the instalments, the respondent is at liberty to proceed against the writ petitioner by following the procedures as contemplated under the Employee's Provident Fund and Miscellaneous Provisions Act, 1952.

6. With these directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Dr.Balasundaram Road,Coimbatore - 641 018.

+1 cc to M/s.S.Gunalan,Advocate Sr.No. 81232

+1 cc to M/s.C.Kulanthaivel,Advocate Sr.No. 80821

AKM/01.11.19/2P- 4C /

W.P.No.18767 of 2017