

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.224 of 2020
and
W.M.P.No.248 of 2020

Tvl.Balu Spinning Mills Pvt.Ltd.,
represented by its Director,
B.R.Arun Eashwar, C.Ammapatty,
Pollachi Road,
Dharapuram - 638 657. ... Petitioner

vs

1. The Assistant PF Commissioner (Comp)II,
Employees Provident Fund Organisation,
S.J.Plaza, Swarnapuri,
Salem - 636 004.
2. The Recovery Officer,
Original PF Commissioner-II,
Employees Provident Fund Organisation,
Cauvery Road, Karungalpalayam,
Erode - 638 003. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus to direct the 1st and 2nd respondents to grant permission to make payment of Rs.46,20,516.00 in maximum equal monthly instalments as requested by the petitioner vide representation dated 09.12.2019.

For Petitioner : Mr.R.Senniappan

For Respondents: Mr.R.Thirunavukarasan
Standing Counsel

ORDER

This Writ Petition is filed seeking for a direction to the respondents 1 and 2 to grant permission to make payment of Rs.46,20,516/- in maximum equal monthly instalments as requested by the petitioner through representation dated 09.12.2019.

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

3. The petitioner is a Spinning Mill. An order under Section 7A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 dated 05.11.2018 was passed by the 1st respondent assessing the total due payable for the period 10/2015 to 03/2018 as Rs.57,92,770/-. It is stated that in pursuant to the said order, the petitioner effected payment of Rs.11,72,254/-. Therefore, the balance amount of Rs.46,20,516/- is now sought to be paid in monthly instalments, for which, the petitioner made a representation dated 09.12.2019 before the respondents. Since, the said representation has not been considered, the present Writ Petition is filed before this Court.

4. Learned counsel appearing for the respondents is not disputing the fact that the petitioner is liable to pay the balance of Rs.46,20,516/- under Section 7A of the E.P.F. and Miscellaneous Provisions Act, 1952, for the above said period. However, he submitted that apart from the said sum, the petitioner is liable to pay interest and penalty under section 7Q and 14B of the said Act, for which, separate proceedings will be issued.

5. This Court is not expressing any view on the above said liability under sections 7Q and 14B, as the present writ petition is filed only with a limited prayer for effecting payment of Rs.46,20,516/- in equal monthly instalments.

6. Since the learned counsel for the respondents is not disputing the said quantum and considering the fact that the petitioner is willing to pay the same in monthly instalments, this Court is of the view that interest of both parties would be protected if the petitioner is permitted to pay the said sum of Rs.46,20,516/- in twelve equal monthly instalments, without prejudice to the rights of the respondents to initiate proceedings under sections 7Q and 14B of the said Act.

7. Accordingly, this Writ Petition is disposed of on the following terms.

(a) The petitioner shall make payment of Rs.46,20,516/- in twelve equal monthly instalments commencing from 7th February, 2020.

(b) Every instalment shall be paid on or before 7th day of such month.

(c) If the petitioner fails to make any one instalment, it is open to the respondents to proceed against the petitioner to

recover the balance amount in accordance with law.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Assistant PF Commissioner (Comp)II,
Employees Provident Fund Organisation,
S.J.Plaza, Swarnapuri,
Salem - 636 004.
2. The Recovery Officer,
Original PF Commissioner-II,
Employees Provident Fund Organisation,
Cauvery Road, Karungalpalayam,
Erode - 638 003.

+1cc to Mr.R.Senniappan, Advocate, S.R.No. 5824

+1cc to Mr.R.Thirunavukarasan, Advocate, S.R.No. 5098

W.P.No.224 of 2020

AD(CO)
GN(31/01/2020)

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