

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.2245 of 2020

M/s.Devarshola Tea Estate
Rep. by its Manager - Finance
A.Soosai Arulappan

... Petitioner

vs.

Regional Provident Fund Commissioner-II
Employees Provident Fund Organization
Post Box No.3875, Dr.Balasundaram Road,
Coimbatore - 641 018.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, calling for the records relating to the impugned order bearing ref.No.CB/CBE/PDC-II/CC-18/631/INTEREST/2019 dated 22.10.2019 passed by the respondent and to quash the same and direct the respondent to accept the remaining outstanding determined amount in 24 equal installments.

For Petitioner : Mr.P.Thangaraj

For Respondent : Mr.C.Kulandaivel

O R D E R

Mr.C.Kulandaivel, learned counsel takes notice for the respondent. By consent of both the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The present writ petition is filed challenging the order of the respondent dated 22.10.2019 and the consequential direction to the respondent to accept the outstanding determined amount in 24 equal installments.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

4. For the belated remittance of the dues for the period from 04/2018 to 03/2019 (Due months 06/2013 to 02/2019), the respondent initiated proceedings under Section 7Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, for recovering the interest and consequently, passed the impugned order determining the total interest liability as Rs.15,33,994/-. The petitioner was asked to remit the said amount within 15 days from the date of receipt of the said order.

5. Though the challenge made in this writ petition is against the above said order, in effect, the challenge is not against the quantum, but only against the time granted to make such payment. It is stated that the petitioner-Company is facing severe financial problem because of the low productivity and fall in price of tea products in the international markets. Therefore, it is stated that delay in making payments to the respondent was not intentional, but because of severe loss suffered by the petitioner-Company. Therefore, the petitioner seeks time for remitting the impugned demand in 24 equal monthly installments. It is to be noted that the levy of interest under Section 7Q of the EPF & MP Act, is a consequence of making belated remittance under the said Act. Therefore, for paying such interest so determined, the petitioner cannot seek for such long time of 24 months. At the same time, considering the fact that the petitioner is not disputing the quantum and only seeks some breathing time to pay the said amount in installments, this Court is of the view that the interest of justice would be met, if the petitioner is granted 12 monthly installments to pay the impugned demand.

6. Accordingly, this Writ Petition is disposed of, under the following terms:

(a) The respondent shall permit the petitioner to pay the said sum of Rs.15,33,994/- in 12 equal monthly installments, commencing from 20.02.2020.

(b) The petitioner shall also pay the monthly instalments on or before 20th day of every succeeding month.

(c) If there is any default in making the payments as stated supra, even for a month, it is open to the respondent to resort

to recover the balance amount in total in
accordance with law, without reference to
this order.

No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mk

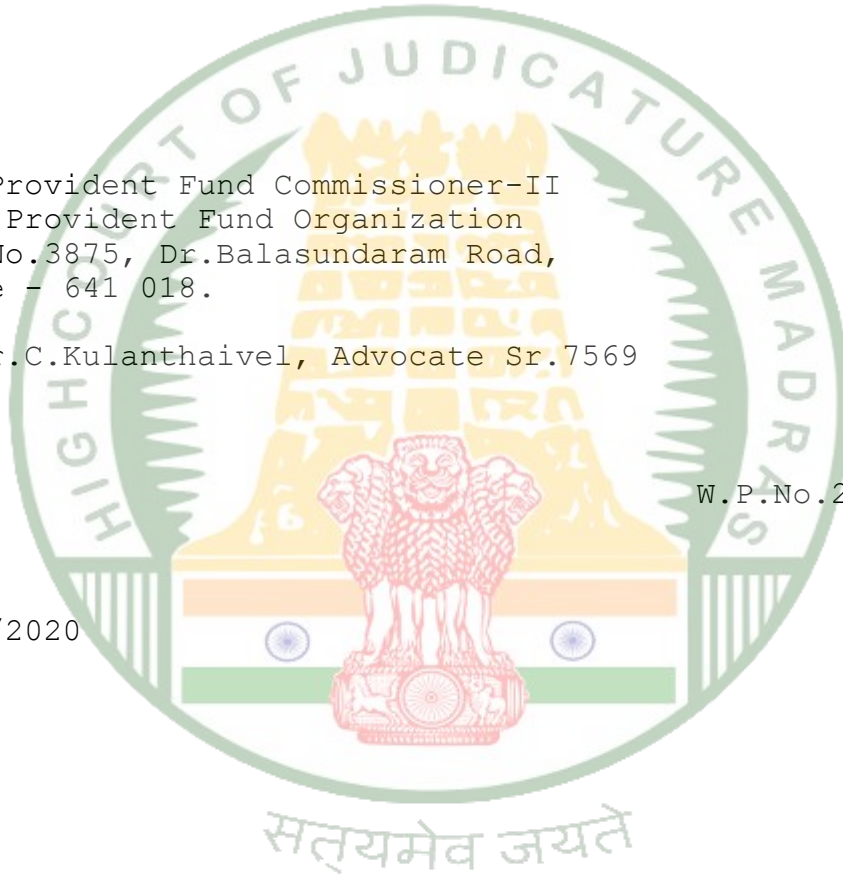
To

Regional Provident Fund Commissioner-II
Employees Provident Fund Organization
Post Box No.3875, Dr.Balasundaram Road,
Coimbatore - 641 018.

+1cc to Mr.C.Kulanthaivel, Advocate Sr.7569

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mp[co]
srg 28/02/2020



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