

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.2035 of 2020
and
W.M.P.No.2380 of 2020

M/s.Net Magnus Solutions India Private Ltd.,
No.15/7, D'Silva Road,
Mylapore, Chennai-600 004.
Rep. by its Director ... Petitioner

vs.

- 1.The Assistant Provident Fund Commissioner (C&R)
Regional Office, Chennai-II
No.37, Royapettah High Road,
Chennai-600 014.
- 2.The Enforcement Officer, CC-I/19
Regional Office, Chennai-II
No.37, Royapettah High Road,
Chennai-600 014. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari, calling for the records of the 1st respondent pertaining to his proceedings in No.TN/CHN(SOUTH)/CC-I/Div.19/TN-52724/2019 and quash the order dated 29.11.2019.

For Petitioner : Mr.L.Chandrakumar
for Mrs.R.Kamalarani
For Respondents : Mr.T.R.Sundaram
standing counsel

ORDER

Mr.T.R.Sundaram, learned standing counsel takes notice for the respondents. By consent of both the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed challenging the order of the first respondent dated 29.11.2019 passed under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act,

1952, directing the petitioner to remit the sum of Rs.6,85,820/- within 15 days from the date of receipt of the said order. The impugned order further informed the petitioner that the belated remittances will attract recovery of damages under Section 14B and interest under Section 7Q of the EPF&MP Act, 1952.

3. Mr.L.Chandrakumar, learned counsel appearing on behalf of the petitioner submitted that though the present writ petition is filed challenging the impugned order in its entirety, the petitioner is aggrieved only against the time granted therein for making the payment. Therefore, he fairly submitted that, if sufficient time is given to pay the impugned demand in a reasonable monthly installments, the petitioner would be satisfied.

4. The learned standing counsel appearing for the respondents submitted that the impugned order was passed after assessing the due payable by the petitioner and the remittance already made by them. He further submitted that the damages under Section 14B and the interest under Section 7Q of the EPF&MP Act, 1952, are to be initiated separately and therefore, by paying the impugned demand, the petitioner cannot escape from such liability.

5. Heard both sides.

6. Though this writ petition is filed challenging the order passed under Section 7A of the EPF&MP Act, 1952, the petitioner has confined its relief only in respect of the time granted for making such payment. The impugned order directed the petitioner to pay the amount of Rs.6,85,820/- within 15 days from the date of receipt of the said order, even before the expiry of appeal time.

7. Considering the above submissions made by the learned counsel for the petitioner and since they have come forward to make the payment in installments without disputing their liability, this Writ Petition is disposed of, as follows:

(a) The petitioner shall pay a sum of Rs.85,820/-, out of the total liability of Rs.6,85,820/-, on or before 15.02.2020.

(b) The petitioner shall pay the balance amount of Rs.6,00,000/- Lakhs in 6 equal monthly installments commencing from 15th day of March 2020.

(c) The petitioner shall also pay the monthly instalments on or before 15th day of every succeeding month.

(d) If any one of the instalments is not paid as directed by this Court, the

respondents is at liberty to take action against the petitioner in accordance with law for recovery of the entire balance amount.

(e) The order passed in this writ petition is without prejudice to the rights of the respondents to claim damages under Section 14B and interest under Section 7Q of the EPF&MP Act, 1952 and the right of the petitioner-Management to resist such claim, since the said issue is not the issue involved in this writ petition.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

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To

1. The Assistant Provident Fund Commissioner (C&R)
Regional Office, Chennai-II
No.37, Royapettah High Road,
Chennai-600 014.
2. The Enforcement Officer, CC-I/19
Regional Office, Chennai-II
No.37, Royapettah High Road,
Chennai-600 014.

+1cc to Mr.T.R.Sundaram, Advocate, SR.No.6737.
+1cc to Mrs.R.Kamalarani, Advocate, SR.No.6433.

CA (CO)
CSR: 05.02.2020

W.P.No.2035 of 2020

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