

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.3378 of 2020  
and  
W.M.P.No.3934 of 2020

M/s.NEPC AGRO FOODS

Represented by its Director  
1678, Trichy Road,  
Ramanathapuram  
Coimbatore - 641 015.

.... Petitioner

vs.

The Assistant Provident Fund Commissioner  
Employees Provident Fund Organization  
No.R-40, A-1, TNHB Shopping-cum-office Complex  
Mogappair Road, Chennai-600 037.

.... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, calling for the records of the respondent in Ref.No.TN/RO/AMB/3173/PDC/202/2019/DEMAND NOTICE/7Q dated 01.01.2020 and quash the same and consequently, directing the respondent to accept the remaining outstanding determined amount in the above impugned order in 24 equal installments.

For Petitioner : Mr.B.Gopalakrishnan

For Respondent : Mr.J.Sathyanarayana Prasad  
standing counsel

O R D E R

Mr.J.Sathyanarayana Prasad, learned standing counsel takes notice for the respondent. By consent of both 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 01.01.2020 with a consequential direction to the respondent to accept the outstanding determined amount in 24 equal monthly installments.

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

4. Though the present writ petition is filed challenging the impugned order determining the dues payable by the petitioner for the period from 01/2000 to 02/2010 amounting to Rs.3,06,419/-, the real grievance is not against the quantum, but against the time within which, it has to be paid. In other words, even as per the prayer sought for in this writ petition, the petitioner only seeks for a direction to the respondent to accept the amount determined in 24 equal monthly installments.

5. It is stated in the affidavit filed in support of this writ petition that the petitioner-Management could not carry on business due to unforeseen circumstances and finally, suspended the business operations during 2008 and there is no business activities thereafter. Therefore, it is submitted that the petitioner-Management is not in a position to remit the amount determined in one lump sum. Thus, the petitioner-Management seek to pay the amount in 24 equal monthly installments.

6. Since the petitioner has come forward to make the payment without disputing either the liability or the quantum arrived and in view of the difficulties expressed by them in making such payment in one lump sum, this Court is of the view that the interest of justice would be met, if the following order is passed in this writ petition, by protecting the interest of both parties.

7. Accordingly, this Writ Petition is disposed of under the following terms and conditions:

(a) The petitioner shall pay the sum of Rs.3,06,419/- determined by the respondent in 10 equal monthly installments commencing from 05.03.2020.

(b) The petitioner shall also pay the monthly installments on or before 5th day of every succeeding month.

(c) Apart from paying the monthly installments as directed supra, the petitioner shall pay regular contribution without fail.

(d) If anyone of the installments is not paid within the time stipulated herein, it is open to the respondent to resort to the procedures contemplated to recover the balance amount in full in accordance with law.

(e) This order will not preclude the respondent from initiating proceedings to

recover the interest or penalty from the petitioner, if it is so warranted under law.

(f) If any such proceedings are initiated, it is open to the petitioner to work out their remedy as against such proceedings in the manner known to law.

No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

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To

The Assistant Provident Fund Commissioner  
Employees Provident Fund Organization  
No.R-40, A-1, TNHB Shopping-cum-office Complex  
Mogappair Road, Chennai-600 037.

+1 CC to Mr.J.Sathyanarayana Prasad, Advocate sr 11218

+1 CC to Mr.S. Gunalan, advocate sr 11469.

W.P.No.3378 of 2020

JP (CO)  
SP (14/02/2020)

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