

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.05.2020

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.7389 of 2020

and

W.M.P.Nos.8840, 8841 & 8842 of 2020

Groom India Salon and SPA Pvt. Ltd.,
9-B, Ganga Griha, I Floor
Nungambakkam High Road,
Opp. Ispahani Centre
Chennai-600 034

Rep. by its Authorised Signatory. ... Petitioner

Vs

- 1.The Regional Provident Fund Commissioner II
Regional Office, Chennai-II
Employees' Provident Fund Organisation
37, Royapettah High Road,
Chennai-600 014.
- 2.The Assistant Provident Fund Commissioner
Regional Office, Chennai-II
Employees' Provident Fund Organisation
37, Royapettah High Road,
Chennai-600 014.
- 3.The Assistant Provident Fund Commissioner (Recovery)
Office Of the Recovery Officer
Employees' Provident Fund Organisation
37, Royapettah High Road,
Chennai-600 014.
- 4.The Branch Manager
HDFC Bank Ltd.,
40 Nungambakkam High Road
Chennai-600 034.
- 5.The Senior Branch Manager
Andhra Bank
Mylapore Branch
6 North Mada Street
Mylapore, Chennai-600 004.

6.The Branch Manager
Axis Bank
West Mambalam Branch
West Mambalam
Chennai-600 033.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorari, calling for the records of the 3rd respondent in proceedings No.TN/CHN-I/CC-II (RECOVERY) TN/83169/D-D22/2019 dated 13.03.2020, quash the same.

For Petitioner : Mr.Anand Gopalan
M/s.T.S.Gopalan & Co.
For Respondents : Mr.K.Ramu
standing counsel
for R1 to R3

O R D E R

This matter is taken up for hearing through Video-Conferencing mode.

2. Mr.K.Ramu, learned standing counsel takes notice for the respondents 1 to 3.

3. After hearing the learned counsel for the petitioner and the learned standing counsel for the respondents 1 to 3, this Court finds that this writ petition can be disposed of, at the admission stage itself, without ordering notice to the respondents 4 to 6/Banks, where the petitioner is maintaining their bank accounts. Accordingly, notice to the respondents 4 to 6 is dispensed with.

4. The petitioner is aggrieved against the order of the 3rd respondent dated 13.03.2020 passed under Section 8F of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, wherein and whereby, the accounts maintained by the petitioner in the respondents 4 to 6/Bank were attached for realising the money due and payable by the petitioner under Section 14B and Section 7Q of the above said Act.

5. The learned counsel for the petitioner submitted that the total amount determined by the authorities is in respect of the damages under Section 14B and interest under Section 7Q of the said Act for the relevant periods. It is seen that on 31.10.2018 two orders were passed under Section 14B and Section 7Q of the said Act, independently, for the period

04/2016 to 09/2016. It is further seen that again on 17.12.2019 similar orders were passed under Section 14B and Section 7Q for the period 06/2015 to 03/2016 and 10/2016 to 02/2019. It is stated by the petitioner that they have not challenged the order dated 31.10.2018 passed under Section 14B of the said Act. However, it is stated that as against the order dated 17.12.2019 passed under Section 14B, an appeal before the Appellate Forum has been filed on 24.03.2020 and the same is pending before such authority. After saying so, the learned counsel for the petitioner submitted that the petitioner is willing to pay the amount referred to in the orders dated 31.10.2018 passed under Sections 14B and 7Q of the said Act as well as the order dated 17.12.2019 passed under Section 7Q of the said Act, provided the petitioner is permitted to pay it in reasonable monthly installments. Insofar as the order dated 17.12.2019 passed under Section 14B of the said Act is concerned, it is stated that the petitioner would pursue their remedy before the Appellate Forum, where they have also filed stay petition. However, it is stated that in view of the present lock down situation, the Appellate Forum is not functioning and therefore, as and when the Appellate forum starts functioning the petitioner will pursue the appeal and seek appropriate remedy.

6. The learned standing counsel appearing for the respondents 1 to 3 submitted that the total amount payable by the petitioner arising out of the orders dated 31.10.2018 and 17.12.2019 passed under Sections 14B and 7Q of the said Act, leaving the order dated 17.12.2019 passed under Section 14B, is a sum of Rs.49,44,292/-. Therefore, he submitted that the petitioner should be directed to pay this amount without any further delay.

7. Insofar as the challenge made against the order dated 17.12.2019 passed under Section 14B of the said Act is concerned, the learned standing counsel for the respondents 1 to 3 submitted that it is for the petitioner to work out their remedy before the Appellate Authority, where the appeal is pending.

8. Heard the learned counsel for the petitioner and the learned standing counsel for the respondents 1 to 3.

9. Challenge made in this writ petition is against the bank attachment order dated 13.03.2020 issued by the third respondent to recover the dues from the petitioner. The total amount sought to be recovered from the petitioner is arising out of two components viz., Damages under Section 14B and interest under Section 7Q of the said Act. The total demand made is in respect of relevant period referred to in the

orders dated 31.10.2018 and 17.12.2019 passed under Section 14B and 7Q of the said Act. Out of four orders, the petitioner has chosen to challenge the order dated 17.12.2019 passed under Section 14B of the said Act before the Appellate Forum on 24.03.2020 and it is stated that the appeal is still pending.

10. Considering the fact that the Appellate Forum is not functioning due to lock down situation, this Court is of the view that it is for the petitioner to work out their remedy in respect of the order dated 17.2.2019 passed under Section 14B of the said Act before the Appellate Forum, where they have filed appeal against the said order.

11. Insofar as the other three orders are concerned, it is stated that the total amount payable by the petitioner comes to Rs.49,44,292/-. It is stated by the learned counsel for the petitioner that out of the said sum, the petitioner has made some part payment.

12. Considering the above stated facts and circumstances and considering the fact that the petitioner is willing to pay the undisputed amount arising out of the orders dated 31.10.2018 passed under Section 14B and 7Q and order dated 17.12.2019 passed under Section 7Q of the said Act, this Court is of the view, that this writ petition can be disposed of by passing the following order/directions:

(a) The petitioner shall pay the amount due arising out of the order dated 31.10.2018 passed under Section 14B; order dated 31.10.2018 passed under Section 7Q and order dated 17.12.2019 passed under Section 7Q of the said Act, in ten equal monthly installments commencing from 01.06.2020, after giving credit to the amount, if any, already paid.

(b) If any one of the installments is not paid by the petitioner, the respondents 1 to 3 are at liberty to proceed against the petitioner to recover the amount due in accordance with law without reference to the order passed in this writ petition.

(c) The monthly installment shall be paid on the 1st working day of every month.

(d) In view of the above order passed, the respondents 1 to 3 are directed to lift the bank attachment forthwith.

(e) Insofar as the order dated 17.12.2019 passed under Section 14B of the said Act, against which, the appeal filed is concerned, the respondents 1 to 3 shall not take any

coercive action against the petitioner to recover the sum due under the said order till the stay petition filed before the Appellate Forum is taken up and decided.

13. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Regional Provident Fund Commissioner II
Regional Office, Chennai-II
Employees' Provident Fund Organisation
37, Royapettah High Road,
Chennai-600 014.
2. The Assistant Provident Fund Commissioner
Regional Office, Chennai-II
Employees' Provident Fund Organisation
37, Royapettah High Road,
Chennai-600 014.
3. The Assistant Provident Fund Commissioner (Recovery)
Regional Office, Chennai-II
Employees' Provident Fund Organisation
37, Royapettah High Road,
Chennai-600 014.

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and

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PVS (CO)
RMP (01/10/2020)

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