

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 21373 of 2018

and

W.M.P. No. 25055 of 2018

M/s. Servall Engineering Works Private Limited,
Rep by its Senior General Manager - HR & IR & Admn,
Karamadai,
Coimbatore - 641 104.

... Petitioner

-vs-

1. Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
P.B. No. 3875, Dr. Balasundaram Road,
Coimbatore - 641 018.

2. The Recovery Officer,
Employees Provident Fund Organisation,
P.B. No. 3875, Dr. Balasundaram Road,
Coimbatore - 641 018.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the First Respondent to consider the representation dated 30.07.2018 made by the Petitioner and lift the prohibitory Order No. TN/CBE/RECOVERY/11478/2018 dated 12.07.2018 in respect of Current Account No. 00602000000068, Indian Overseas Bank, Ramalinga Nagar Branch, Coimbatore and Current Account No. 00000010496077133, State Bank of India, Commercial Branch, Coimbatore passed by the Second Respondent.

For Petitioner :Mrs. Veda for M/s. Meenakshisundaram

For Respondents:Mr. C.Kulanthaivel

O R D E R

(through video conference)

Heard Mrs. Veda, Learned Counsel for the Petitioner and Mr. C.Kulanthaivel, Learned Counsel for the First and Second Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed for directing the First Respondent to consider the representation dated 30.07.2018 made by the Petitioner and lift the prohibitory Order No. TN/CBE/RECOVERY/11478/2018 dated 12.07.2018 in respect of Current Account No. 00602000000068, Indian Overseas Bank, Ramalinga Nagar Branch, Coimbatore and Current Account No. 00000010496077133, State Bank of India, Commercial Branch, Coimbatore passed by the Second Respondent.

3. In the aforesaid representation dated 30.07.2018, the Petitioner has sought for waiver of the determined amount of penal damages levied by the Respondents under Section 14-B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act' for short). When it is pointed out by the Learned Standing Counsel appearing for the Respondents that it is not possible to grant any waiver of the statutory liability, Learned Counsel for the Petitioner contends that the Petitioner would be satisfied, if the said amount is permitted to be remitted in 36 equated monthly installments.

4. In response to the query made, Learned Standing Counsel appearing for the Respondents has produced the Circular No. RRC/28(23)06/BIFR/23781 dated 11.02.2014 and the Circular No. RRC/28(23)06/BIFR/3345 dated 12.05.2014 issued by the Central Provident Fund Commissioner, containing the instructions approved by the Central Board of Trustees of the Employees Provident Fund Organization in their earlier meetings to permit the arrears of provident fund dues accumulated to be remitted in monthly installments.

5. Learned Counsel for the Petitioner states that the Petitioner has submitted a representation dated 14.08.2020 for availing the said benefit of remitting the arrears of provident fund accumulated in 36 equated monthly installments and he has furnished a copy of that representation along with its postal registration dated 17.08.2020, through e-mail dated 18.08.2020, which is placed on record.

6. Having due regard to the aforesaid submissions made, this Court without expressing any view on the correctness or entitlement of the claim made by the Petitioner, requires the Competent Authority to duly consider the aforesaid representation dated 14.08.2020 made by the Petitioner with reference to the parameters stipulated in the aforesaid circulars, and pass reasoned orders on merits and in accordance with law and communicate the decision taken to the Petitioner under written acknowledgment. Before carrying out that exercise, if the Competent Authority is of the view that the Petitioner has not satisfied the prescribed requirements or eligibility

criteria for that benefit, the deficiencies in that regard shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 10 working days that may be granted for that purpose. In the event of the Competent Authority being of the opinion that the Petitioner has not satisfied the same even thereafter, an enquiry shall be conducted affording an opportunity of personal hearing to the Petitioner to explain its position regarding such compliance. It is made clear that resort to any further coercive measures for recovery against the Petitioner shall be deferred till the representation is disposed in the aforesaid manner.

7. Accordingly, the Writ Petition is disposed on the aforesaid terms. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Maya

To

1. Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
P.B. No. 3875, Dr. Balasundaram Road,
Coimbatore - 641 018.
2. The Recovery Officer,
Employees Provident Fund Organisation,
P.B. No. 3875, Dr. Balasundaram Road,
Coimbatore - 641 018.

+1cc to Mr.C.Kulanthaivel, Advocate, Sr.No.27055

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VBA(CO)
GS(26/08/2020)