

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2020

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

W.P.No.16339 of 2020

M/s.Smart Modern School
Rep.by its General Secretary
N.Dinakaran, No.5/15, Oorvali Thottam
Ammapalayam, Velampalayam
Annupparpalayam (Post), Tiruppur-641 652 ... Petitioner

-Vs-

- 1 The Regional Provident Fund Commissioner-II
Employees Provident Fund Organization
Dr.Balasundaram Road, Coimbatore-641 018.
- 2 The Recovery Officer,
Employees Provident Fund Organization
Dr.Balasundaram Road, Coimbatore-641 018.
- 3 The Enforcement Officer CC-23
Employees Provident Fund Organization
District Office, Tiruppur. ... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus directing the respondents to consider the petitioner representation dated 24.10.2020 for restructure of monthly instalment periods.

For Petitioner : Mr.K.Myilsamy

For Respondents : Mr.J.Sathya Narayanan

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O R D E R

The prayer sought for in this writ petition is to direct the respondents to consider the petitioner representation dated 24.10.2020 for restructure of monthly instalment periods.

2. The petitioner School is a self financing private recognized School started in the year 2010. It has already been covered under the provisions of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (in short 'the Act'). Due to insufficiency of funds, the petitioner School was unable to

remit the contribution to the respondent EPF within the stipulated time and therefore the EPF authorities issued notice under Section 14B of the Act for levying interest and damages for the belated remittance. Only at that juncture the petitioner had approached this Court and filed a writ petition in W.P.No.7032 of 2020 seeking direction from this court permitting the petitioner to pay the entire dues payable to the respondents on monthly installment basis.

3. The said writ petition having been considered was disposed of by this Court by order dated 19.03.2020 where the learned Judge has permitted the petitioner to pay the EPF dues in 15 equated monthly installments commencing from April 2020. In this context it is the further case of the petitioner that, the petitioner was in full agreement with the said order passed by this Court and was ready to pay the dues from April 2020 onwards. Unfortunately, the COVID-19 pandemic has come in the midway as from the third week of March 2020, a national lock down has been imposed due to which nothing could be moved forward. Therefore, the petitioner was not in a position to comply with the direction to pay the dues in 15 equated monthly installments.

4. It is the further case of the petitioner that, now the normalcy has been considerably restored after COVID-19 situation and therefore the petitioner is able to make the payment of course on installment basis. Hence, he wanted to reschedule the 15 equated monthly installments and accordingly he has given a representation to that effect to the respondents on 24.10.2020. Since the same has not been considered and no reschedule installments have been provided by the respondents as requested, the petitioner has filed the present writ petition with the aforesaid prayer.

5. Heard the learned counsel for the petitioner who has reiterated the aforesaid stand and would further submit that, if any reschedule installments are provided by this Court, for which if the respondents agree, certainly the petitioner would start paying the dues to the respondent EPF authorities from the next month itself.

6. Heard Mr.J.Sathya Narayanan, learned Standing Counsel for the respondent EPF authorities, who, on instructions, would submit that, no doubt due to COVID-19 situation, the earlier installment schedule given by this Court has not been followed by the petitioner. Nevertheless, since the petitioner has now come forward to make the payment by starting the installment basis from December 2020 onwards, within a period of 12 months starting from December 2020, if the petitioner is able to pay the entire EPF dues demanded by the respondent organization, that would be agreeable to the respondents.

7. I have considered the said submissions made by the learned counsel for the parties and have perused the materials placed before this Court.

8. As both the learned counsel have fairly submitted that because of COVID-19 situation, the earlier schedule of making the payment of EPF contribution in 15 monthly installments basis commencing from April 2020 could not be complied with and therefore, if a reschedule is given starting from December 2020 for one year, the entire dues could be paid. The said stand taken by the learned counsel for the petitioner is taken on record and accordingly this Court is inclined to dispose of this writ petition with the following order.

9. The petitioner shall start paying the EPF dues as demanded by the respondent EPF Organization in 12 equated monthly installments and the first of such installment shall commence from December 2020 and shall be over by November 2021 within which period the entire EPF dues shall be paid by the petitioner. If there is any violation or deviation in the aforesaid schedule, which itself is a rescheduled one, it is open to the respondent EPF to proceed against the petitioner in accordance with law.

10. With these directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1 The Regional Provident Fund Commissioner-II
Employees Provident Fund Organization
Dr.Balasundaram Road, Coimbatore-641 018.
- 2 The Recovery Officer,
Employees Provident Fund Organization
Dr.Balasundaram Road, Coimbatore-641 018.
- 3 The Enforcement Officer
Employees Provident Fund Organization
District Office, Tiruppur.

+1cc to Mr.K.Myilsamy, Advocate, S.R.No.37545

W.P.No.16339 of 2020

GJ(CO)
RV(11/12/2020)