

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2020

CORAM

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

W.P. No. 27993 of 2019
and
W.M.P. No. 27603 of 2019

The Trustees,
NTC (TN & P) Ltd.,
Manager's Supervisor's and Head Office Staff,
Provident Fund,
No. 35-B, Somasundaram Mills Road,
Coimbatore - 641 009. Petitioner

-vs-

1. The Central Provident Fund Commissioner,
Employees Provident Fund Organization,
Ministry of Labour & Employment,
Government of India,
Bhavishya Nidhi Bhavan,
14 - Bhikaji Cama Palace,
New Delhi - 110 066.
2. The Regional Provident Fund Commissioner-II,
Regional Office,
Bhavishya Nidhi Bhavan,
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 Certiorari, calling for the records of the Second Respondent Regional Provident Fund Commissioner II, Regional Office, Bhavishya Nidhi Bhavan, P.B. No. 3875, Dr. Balasundaram Road, Coimbatore - 641 018 in respect of the communications No. TN/CBE/SURCHARGE/LEVY ORDER/7510/EXEM/GAG-II/2018 dated 12.11.2018 and No. TN/CBE/7510/ CAG-2/EPF EXAM/2018 dated 13.12.2018 and quash the same.

For Petitioner : Mr. Bharath Gowtham
for Mr. C.V.Vijayakumar

For Respondents: Mr. J.Sathyanarayana Prasad,
Central Government Standing Counsel

O R D E R

(through video conference)

Heard Mr. Bharath Gowtham, Learned Counsel appearing for the Petitioner and Mr. J.Sathyanarayana Prasad, Learned Central Government Standing Counsel appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. It is contended by the Learned Counsel for the Petitioner that though the Petitioner has challenged the Order No. TN/CBE/SURCHARGE/LEVY ORDER/7510/EXEM/GAG-II/2018 dated 12.11.2018 and Order No. TN/CBE/ 7510/CAG-2/EPF EXEM/2018 dated 13.12.2018 passed by the Second Respondent, the Petitioner would be satisfied if the representation dated 10.09.2020 made by the Petitioner for waiver of surcharge made in terms of clause 10 of the Circular No. Exem/10(16)2016/28265 dated 01.02.2017 issued by the Additional Central Provident Fund Commissioner - I (Exemption), New Delhi. Learned Counsel for the Respondents acknowledges the receipt of the same.

3. 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 10.09.2020 made by the Petitioner with reference to the parameters stipulated in the aforesaid circular, 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 coercive measures for recovery

against the Petitioner shall be deferred till the representation is disposed in the aforesaid manner.

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

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Central Provident Fund Commissioner,
Employees Provident Fund Organization,
Ministry of Labour & Employment,
Government of India,
Bhavishya Nidhi Bhavan,
14 - Bhikaji Cama Palace,
New Delhi - 110 066.
2. The Regional Provident Fund Commissioner,
Regional Office,
Bhavishya Nidhi Bhavan,
P.B. No. 3875,
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Coimbatore - 641 018.

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