

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2020

CORAM

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

W.P. No. 23412 of 2019

M/s. Geetha Ramakrishna Mills Pvt Ltd.,
Rep. by its Director, V. Balaji,
No. 316, Mai Road,
Shevapet,
Salem - 636 002.

... Petitioner

-vs-

Assistant Provident Fund Commissioner (Comp-II),
Employees Provident Fund Organization,
Regional Office, S.J. Plaza,
Swarnapuri,
Salem - 636 004.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, i) calling for records of order Ref. No. CB/SLM/RO/PDC/17512/S-2/7Q-PROCEEDING/2019, dated 22.05.2019 passed by the Respondent to quash the same, and ii) direct the Respondent to make the re-assessment of the interest amount calculation, and iii) direct the Respondent to accept the remaining outstanding determined amount in 36 equal monthly installments.

For Petitioner :Mr. P. Thangaraj

For Respondent :Mr. R. Thirunavukkarasu,
Standing Counsel

O R D E R
(through video conference)

Heard Mr. P.Thangaraj, Learned Counsel for the Petitioner, Mr. R.Thirunavukkarasu, Learned Standing Counsel for the Respondent 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. CB/SLM/RO/PDC/17512/S-2/7Q-PROCEEDING/2019 dated 22.05.2019 passed by the Respondent demanding payment of interest for the accumulation of provident fund dues under Section 7-Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the 'Act' for short), the Petitioner would be satisfied if interest is computed after giving proper credit to payments already made on the actual dates and the resultant amount of arrears of provident fund dues are permitted to be remitted in 36 equated monthly installments.

3. In response to the query made, Learned Standing Counsel appearing for the Respondent 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 Organisation in their earlier meetings to permit the arrears of provident fund dues accumulated to be remitted in monthly installments.

4. Learned Counsel for the Petitioner states that the Petitioner has submitted a representation dated 01.07.2019 for reconciliation of accounts and availing the said benefit of remitting the arrears of provident fund accumulated in 36 equated monthly installments, which has been received by the Respondent.

5. 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 01.07.2019 made by the Petitioner for recalculation of the amount due and for permitting payment of the accumulated arrears in installments 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 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. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

vjt/dm

To

The Assistant Provident Fund Commissioner (Comp-II),
Employees Provident Fund Organization,
Regional Office, S.J. Plaza,
Swarnapuri,
Salem - 636 004.

Copy to

M/s. Geetha Ramakrishna Mills Pvt Ltd.,
Rep. by its Director, V. Balaji,
No. 316, Mai Road,
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+1cc to Mr.P.Thangaraj, Advocate SR.29335

W.P. No. 23412 of 2019

spd(CO)
CB(17/09/2020)