

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.35551 of 2019

and

W.M.P.No.36401 of 2019

M/s. R.R.K.Sai Fashion,
Rep. by its Partner,
Mr.K.S.Dharmalingam,
No.149 & 151, 4th Cross,
Karungalpatty Main Road,
Gugai,
Salem - 636 006.

... Petitioner

vs

The Assistant Provident Fund Commissioner (Comp),
Regional Office, SJ Plaza,
Swarnapuri,
Salem - 636 004.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari to call for the records of impugned show cause notice proceedings in No.TN/RO/SLM/ CBSLM1011041000/ COMP/503 /2019 dated 06.09.2019 passed by the respondent and quash the same.

For Petitioner : Mr.S.Sathish

For Respondent : Mr.R.Thirunavukkarasu,
Standing Counsel.

O R D E R

This Writ Petition is filed challenging the proceedings dated 06.09.2019, wherein and whereby, the petitioner was directed to remit the total due amount of Rs.58,656/-, representing damages under section 14B, amounting to Rs.39,511/- and interest under section 7Q, amounting to Rs.19,145/-, for the alleged belated payment of the contribution.

2. The grievance of the petitioner is that the impugned proceedings was issued without giving an opportunity to the petitioner to put forth their case. Learned counsel for the petitioner pointed out that though the impugned proceedings

is styled as a show cause notice, in effect, it is an order directing remittance of the amount. Therefore, the learned counsel contended that the impugned order violates the principles of natural justice.

3. On the other hand, the learned Standing Counsel, who took notice for the respondent Corporation, submitted that the petitioner was only called upon to appear for hearing before the Assistant Provident Fund Commissioner and therefore, after hearing the petitioner, appropriate orders would be passed. He also submitted that subsequent to the impugned notice, another notice was issued on 18.12.2019, wherein it is clearly stated that the petitioner is provided with an opportunity to show cause as to why action under the above said provisions viz., Sections 14B and 7Q should not be initiated against them. Therefore, he contended that the petitioner need not have any apprehension and they can make their submissions before the authority concerned at the time of hearing.

4. Perusal of the impugned proceedings would show that though it is styled as a show cause notice, in effect, it is a direction to the petitioner to remit the total due amount of Rs.58,656/-. However, it is seen that the subsequent notice dated 18.12.2019 issued to the petitioner has only called upon them to show cause as to why action shall not be taken against them under Sections 14B and 7Q. It is an admitted fact that hearing before the respondent is not yet over. Therefore, this Court is of the view that the petitioner can make all their submissions before the respondent and consequently, the respondent shall consider the same and pass final order thereafter.

5. Accordingly, this Writ Petition is disposed of as follows:

(a) The petitioner shall appear before the respondent and make their objections/submissions in writing as against the claim made in the impugned notice on or before 20.01.2020.

(b) On receipt of such objections/submissions, the respondent shall pass final order on merits and in accordance with law within a period of four weeks thereafter.

(c) Till the final order is passed by the respondent as directed supra, no coercive action shall be taken as against the petitioner.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi

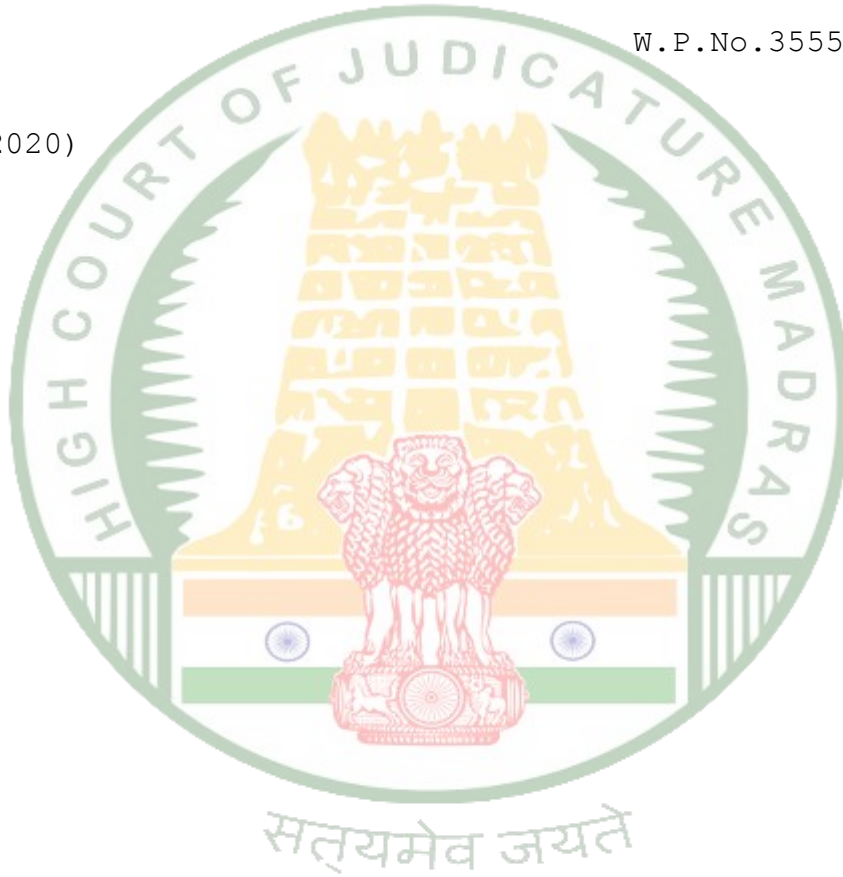
To

The Assistant Provident Fund Commissioner (Comp),
Regional Office, SJ Plaza,
Swarnapuri,
Salem - 636 004.

+lcc to Mr.R.Thirunavukarasu, Advocate SR.198
+lcc to Mr.S.Sathish, Advocate SR.178

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KK(CO)
CB(30/01/2020)



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