

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2021

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.3602 of 2021

and

W.M.P.Nos.4118 and 4119 of 2021

1.M/s.Nuva Machine Works India Pvt. Ltd.,  
Rep. By its Managing Director - K.Sriram,  
2/653/B, 1<sup>st</sup> Street,  
Hare Rama Hare Krishna Nagar,  
Mangalam Road, Andipalayam,  
Tiruppur - 641 687.

2.K.Sriram,  
Son of Meyyappa Kannan,  
Managing Director,  
M/s.Nuva Machine Works India Pvt. Ltd.,  
2/653/B, 1<sup>st</sup> Street,  
Hare Rama Hare Krishna Nagar,  
Mangalam Road, Andipalayam,  
Tiruppur - 641 687.

3.Meyyappa Kanan,  
Director/Promoter,  
M/s.Nuva Machine Works India Pvt. Ltd.,  
2/653/B, 1<sup>st</sup> Street,  
Hare Rama Hare Krishna Nagar,  
Mangalam Road, Andipalayam,  
Tiruppur - 641 687.

... Petitioners

सत्यमेव जयते  
vs.

1.The Authorized Officer,  
Employees Provident Fund Organisation,  
Regional Office,  
Bhavishya Nidhi Bhavan,  
Post Box No.3875, Dr.Balasundaram Road,  
Coimbatore - 641 018.

2.The Regional Provident Fund Commissioner - II - cum-  
Recovery Officer,  
Employees Provident Fund Organisation,  
Regional Office,  
Bhavishya Nidhi Bhavan,  
Post Box No.3875, Dr.Balasundaram Road,  
Coimbatore - 641 018.

... Respondents

Prayer: Writ petition filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for records relating to the Show Cause Notice dated 29.01.2021 issued in No.TN/CB/CBE/RECOVERY/86866/CC-22/2021 by the 2<sup>nd</sup> Respondent and quash the same and consequently direct the Respondents 1 and 2 to grant ten months time for the payment of Rs.50,96,787/- on instalments basis, based on the representation dated 18.12.2020 in accordance with law.

For Petitioners : Mr.R.Bharath Kumar

For Respondents : Mr.J.Sathya Narayana Prasad  
(Standing Counsel)

#### O R D E R

This writ petition has been filed, calling for records relating to the Show Cause Notice dated 29.01.2021 issued in No.TN/CB/CBE/RECOVERY/86866/CC-22/2021 by the 2<sup>nd</sup> Respondent and quash the same and consequently direct the Respondents 1 and 2 to grant ten months time for the payment of Rs.50,96,787/- on installment basis, based on the representation dated 18.12.2020 in accordance with law.

2. It is the case of the petitioners that on 07.10.2020, the second respondent issued a notice of demand to the first petitioner demanding Rs.59,23,681/- towards contribution payable by him. A Show Cause Notice was also issued on 15.12.2020 under Section 8-B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act' for short) indicating the modes of recovery. The first petitioner by his representation dated 18.12.2020 sought for payment of dues in monthly installments and furnished the payment details made by him between May-2018 to June-2018 and sought for 12 equal installments at the rate of Rs.4,93,476/- per month. Accordingly, the first petitioner paid two monthly installments to show their bona fide cheques were given as security. The first petitioner cleared two installments by paying cash and obtained cash receipt and the corresponding cheques from the respondents. However, even before he could make the installments for the month of January - 2021, the cheque was presented before the bank, and the same got bounced.

3. Immediately, the impugned notice dated 29.01.2021 came to be issued to show cause as to why the Managing Director should not be arrested. Even though the representation given by the first petitioner dated 18.12.2020, is pending with the first respondent, without disposing of the same and without communicating as to whether his request is accepted or not, the second respondent organisation has issued a Show Cause

Notice for detention.

4. Having received two installments, it is not incumbent on the second respondent organisation to indulge in such improper methods of recovery. Section 8-B of the Act contemplates attachment of properties and then only arrest can be resorted. But the impugned Show Cause Notice issued by the second respondent dated 29.01.2021 is contrary to the statutory provisions.

5. Mr.J.Sathya Narayana Prasad, learned Standing Counsel appearing for the respondents has vehemently opposed the contentions of the petitioners. He would submit that the petitioners have failed to honour the commitment and failed to honour the cheque. What is issued is only a Show Cause Notice and without giving reply to the same, the petitioners have approached this Court prematurely, therefore the writ petition is liable to be dismissed.

6. However, considering the facts and circumstances of this case, this Court inclined to pass an order permitting the first petitioner to make remaining dues in 10 installments at the rate of Rs.4,93,476/- per month. Till such time, no coercive action shall be taken by the second respondent against the petitioners. Since they have already paid two installments. The first petitioner is directed to make the third installment for the Month of January 2021 within a period of one week from the date of receipt of a copy of this order and continue to pay other installments on or before 10<sup>th</sup> day of every Month.

7. In case of default, it is open to the second respondent to charge interest for the belated payment.

8. The writ petition is disposed of with a above direction. No Costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

dm  
To

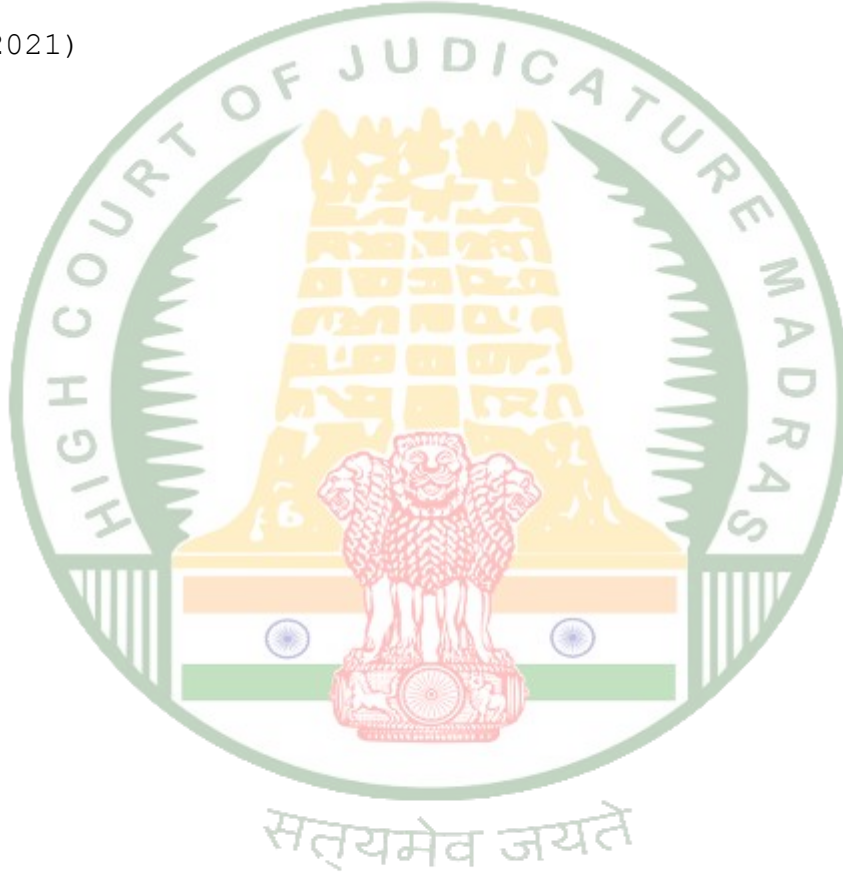
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+lcc to Mr.R.Bharath Kumar, Advocate SR.9010

W.P.No.3602 of 2021

SV(CO)  
CB(18/02/2021)



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