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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM

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

W.P. No. 26723 of 2012

and

M.P. No. 1 of 2012

M/s.Hallmark Industries
Rep. by its Proprietor,
No. A-30, MEPZ, Kadaperi,
Chennai - 600045

... Petitioner

-vs-

Employees' Provident Fund
Organisation, Chennai - 600046,
Rep. by Asst. PF Commissioner (Compliance)

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari calling for the records and quash the proceedings initiated against the Petitioner in Letter No. TN/RO/TBM/Enf/T-4/26073/12 dated 02.08.2012 by the Respondent.

For Petitioner : Mr. V.P.Raman
for Mr. K.Sankaran

For Respondent : Mr.R.Vishnu
for Mr. K.Ramu

O R D E R
(through video conference)

Heard Mr. V.P.Raman, Learned Counsel for the Petitioner and Mr. R.Vishnu, Learned Counsel for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner has challenged the Notice No. TN/RO/TBM/Enf/T-4/26073/12 dated 02.08.2012 issued by the Respondent in proceedings under Section 7-A of the Employees'



Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the 'EPF Act' for short) for non-submission of returns and remittances of contribution towards provident fund dues of its establishment for the period from June 2011 to July 2012 in this Writ Petition.

3. This Court at the time when the matter came up for admission on 09.10.2012 directed the Respondent not to pass final order in the impugned proceedings.

4. It had been brought to notice that after filing of the Writ Petition, the Petitioner has submitted the returns for the relevant period and that the Respondent in the letter No.TB/TAM/GR/-54-5/26073/14-15 dated 13.03.2015 has informed that after adjusting Rs. 14,58,641/-, there was shortage of Rs. 10,198/- for which the Petitioner had been required to make remittance, and that the Petitioner has on 19.03.2015 by Demand Draft made payment in satisfaction of that amount claimed.

5. It is informed that on account of the earlier interim order passed on 09.10.2012, the Respondent was not in a position to carry out the exercise of verifying whether the returns filed by the Petitioner was in conformity with the records maintained relating to persons employed in the establishment and their wages to complete the assessment of liability of the establishment of the Petitioner for the relevant period under Section 7-A of the EPF Act, but in view of the subsequent order passed by this Court on 24.08.2021, the enquiry has commenced by the Respondent on 21.10.2021 in which the Petitioner has attended and has sought time till 12.11.2021 to produce the required records for persual.

6. It shall be incumbent upon the Respondent to conclude the matter if it is found that the returns submitted by the Petitioner are in order, but in the event of the Respondent being of the view that any further amount is due from the Petitioner, the Respondent is not precluded from passing reasoned orders determining such liability of the Petitioner towards provident fund dues for the relevant period after affording full opportunity of personal hearing following the prescribe procedure dealing with each of the contentions raised on merits and in accordance with law in that regard. If the Petitioner is aggrieved by any adverse decision, it would be certainly open to him to work out his remedies before the proper forum in the manner recognized by law. While taking any consequential action for recovery, the concerned authorities shall abide by the relevant statutory provisions as highlighted by this Court in SKM Animal Feeds and Foods (India) Private Limited -vs- Assistant Provident Fund Commissioner, Salem (Order dated 27.01.2021 in W.P. No. 35850 of 2019) and shall not resort to any high-handed or coercive tactics in contravention of law.



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

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Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

dm

To

1. The Asst. PF Commissioner (Compliance)
Employees' Provident Fund Organisation,
Chennai - 600046.

+1cc to Mr.V.P.Raman, Advocate, S.R.No.54798

W.P. No. 26723 of 2012

EV(CO)
CB(09/11/2021)