



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8074 of 2021
and WMP.No.8621 of 2021

Resurgent Power Projects Ltd.,
Second floor, Pantheon Plaza,
Old No.484/485, New No.28-30
Pantheon Road,
Egmore, Chennai 600 008.
Rep.by its Authorised Signatory

... Petitioner

..Vs..

The Regional Provident Fund Commissioner - II (C&R)
Employees Provident Fund Organisation,
Bhavishya Naidhi Bhawan
37, Royapettah High Road,
Chennai 600 014.

... Respondent

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the respondent in proceedings No.CHN-1/Div(28)/TN/49217/Enf/Regl/2021 and quash its order dated 01.03.2021 and further direct the respondent to grant opportunity to the petitioner and conduct fresh enquiry.

For Petitioner : Mr.Haroon
for M/s.T.S.Gopalan and Company

For Respondent : M/s.K.Ramu

ORDER

This writ petition has been filed, seeking to quash the proceedings of the respondent in CHN-1 / Div (28) / TN / 49217 / Enf / Regl / 2021 dated 01.03.2021, by which enquiry was concluded by the Respondent without giving any further opportunity. The Petitioner also sought a direction to the respondent to grant opportunity to the petitioner and conduct fresh enquiry.



2. The petitioner / Management has come forward with the present Writ Petition, challenging the impugned order dated 01.03.2021, bypassing the appellate remedy provided under the EPF Act 1952. The only contention of the Management is that the entire amount as demanded by the EPF, as could be seen from the statement annexed in Page No.25 of the typeset of papers, have been remitted / transferred in respect of 37 employees and that there are no amount due as on date. The Respondent has passed the impugned order, without giving an opportunity of producing some documents by the petitioner and the impugned order has been passed without reference to any of the documents sought to be produced. It is represented by the petitioner / Management that they are willing to produce all the documents available with them to show that the amount in respect of the employees have been transferred to the EPF Organization.

3. Mr.Vishnu Ramu, learned counsel appearing for the respondent submitted that even though the petitioner has got an efficacious and alternative remedy under the EPF Act 1952, the respondent is willing to give an opportunity to the petitioner taking note of Covid - 19 situation, which cannot be treated as a precedent under any circumstances and that the petitioner will have to produce all the necessary documents that the amount demanded at P.No.25 of the typed set of papers have been remitted by the employer and that no amount is payable to the EPF organisation. In case it is found that there is any default, after scrutinizing the records, an order will be passed under Section 7A for waiver of the amount, if it is already paid or otherwise, the Respondent will determine the amount payable by the employer and in that event, the employer needs to approach only the appellate tribunal and the petitioner should not invoke the jurisdiction of this Court once again, challenging the order to be passed by the Respondent.

4. Taking note of the submissions of both the parties and taking note of Covid-19 situation, the petitioner shall be given one more opportunity to produce the records before the EPF authorities and consider as to whether any amount is payable and due from the petitioner, as mentioned in Pg.No.25 of the typed set of papers. It can also be ascertained as to whether the amount demanded has already been paid by the employer, so that the issue can be given quietus to. It is made clear that in case any amount is due to be paid, there is no impediment for the Respondent to pass an order under Section 7A, which can be questioned by the employer only before the appellate tribunal constituted under the EPF Act 1952 and not before this Court. The employer is expected to produce all the documents available with them to the Respondent, within a period of one month from the date of receipt of a copy of this order. It is needless to mention that taking note of the pandemic situation, the



documents can be scanned, clear copies may be forwarded to the respondent along with the Challan, showing the particulars of remittance of the amount. Before taking a decision, if any clarifications are required from the petitioner, the same may be sought for by the EPF authorities from the petitioner / employer and thereafter, a decision can be taken by the authorities concerned, as expeditiously as possible, but not later than two months from the date of production of documents by the employer. It is needless to mention that if the Covid-19 situation becomes normal in the meanwhile, a physical hearing, if possible can be given.

5. With the above observation and direction the writ petition is disposed of. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

dpq

To

The Regional Provident Fund Commissioner - II (C&R)
Employees Provident Fund Organisation,
Bhavishya Naidhi Bhawan
37, Royapettah High Road,
Chennai 600 014.

+1cc to M/s.T.S.Gopalan and Company, Advocate, S.R.No.25128

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KSM(CO)
GMY(01/09/2021)