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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM

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

W.P.NO.6872 OF 2013

AND

M.P.NO.1 OF 2013

The Krishnagiri District Co-operative Spinning Mills Ltd.,
Represented by its Administrator,
Uthangarai, Krishnagiri District.

... Petitioner

-vs-

1. The Regional Provident Fund Commissioner,
Regional Office,
Sri Jeyalakshmi Plaza,
Anna Salai,
Salem - 636 004.
2. The Secretary to Government,
Food Co-operation and Consumer Protection Department,
Fort St. George,
Chennai - 600 009.
3. The Secretary to Government,
Textiles and Handlooms Department,
Fort St. George,
Chennai - 600 009.

... Respondents

(R2 & R3 are suo motu impleaded vide order
dated 22.03.2013 in WP.No.6872 of 2013)

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus calling for the records of the Respondent relating to this proceedings in TN/SRO/SLM/COMP-II/21411 dated 27.12.2012, quash the same in so far as the rejection of the request of the Petitioner to pay the interest in installments and consequently direct the Respondent to permit the Petitioner to make the payment of the interest in 60 monthly installments from January 2014 and enable the Petitioner to make the payment.



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For Petitioner : Mr.P.Srinivas

For Respondents: Mrs.R.Meenakshi,
Standing Counsel (for R1)

Mr.C.Harsha Raj,
Government Counsel (for R2 & R3)

O R D E R
(through video conference)

Heard Mr.P.Srinivas, Learned Counsel for the Petitioner, Mrs.R.Meenakshi, Learned Standing Counsel appearing for the First Respondent and Mr.C.Harsha Raj, Learned Government Counsel appearing for the Second and Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. Though the Petitioner has challenged the order No. TN/SRO/SLM/PDC/ 21411/KNG-1/7-Q PROCEEDING/2012 dated 27.12.2012 passed by the First 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), it is represented by the Learned Counsel for the Petitioner that 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. It has also been brought to notice that the Petitioner has made a representation dated 22.03.2021 for availing such benefit, which has been received as reflected in the letter dated 22.03.2021 from the Respondent. He further informs that the Petitioner has also furnished bank guarantee dated 19.03.2021 and subsequently paid installments of Rs. 1,00,000/- each for seven months aggregating to Rs. 7,00,000/- till date.

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

4. 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 22.03.2021 made by the Petitioner 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 eligibility criteria or prescribed conditions for extending 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.

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

Sd/-

Assistant Registrar(CS II)

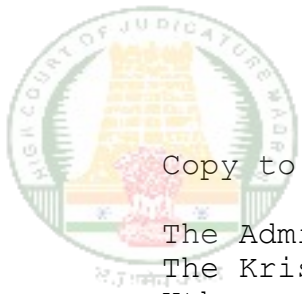
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Sub Assistant Registrar

vjt/skr

To

1. The Regional Provident Fund Commissioner,
Regional Office, Sri Jeyalakshmi Plaza,
Anna Salai, Salem - 636 004.
2. The Secretary to Government,
Food Co-operation and Consumer Protection Department,
Fort St. George, Chennai - 600 009.
3. The Secretary to Government,
Textiles and Handlooms Department,
Fort St. George, Chennai - 600 009.



Copy to

The Administrator,
The Krishnagiri District Co-operative Spinning Mills Ltd.,
Uthangarai, Krishnagiri District.

+1cc to Mrs.R.Meenakshi, Advocate, S.R.No.6872

W.P.No.6872 of 2013

NRJK (CO)
CS/02/11/2021