



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.12069 of 2021
and WMP.Nos.12842 to 12844 of 2021

M/s.Valto Informatics Pvt.Ltd.,
Rep.by its Director
Mr.Vinayan Parappurath
No.312, Skylark, Plot No.63
Sector 11, CBD Belapur,
Navi Mumbai - 400 614.

...Petitioner

-vs-

1. The Assistant Provident Fund Commissioner
Employees Provident Fund Organisation,
Regional Office No.37,
Royapettah High Road,
Chennai 600 014.
2. The Regional Provident Fund Commissioner - II,
Employees Provident Fund Organisation,
Regional Office, No.37,
Royapettah High Road,
Chennai 600 014.
3. The Enforcement Officer - Div 523
Provident Fund Office,
Bhavishya Nidhn Bhavan,
No.27, Royapettah High Road,
Royapettah, Chennai 600 014.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 25.07.2019 passed by the 2nd respondent in reference No.CHN-1/TN/85799/Div.23/Enf/2019 quash the same and consequently direct the 2nd respondent.

For Petitioner : Ms.Nandhini Murali for
Chennai Law Associates

For Respondents: Mr.K.Ramu
Standing Counsel



ORDER

This writ petition has been filed, challenging the Order dated 25.07.2019 passed by the 2nd respondent in CHN-1/TN/85799/Div.23/Enf/2019, in and by which, the Petitioner-Establishment was directed to remit a sum of Rs.21,42,426/- towards P.F., Pension Fund and Insurance Fund Contributions. The Petitioner-Establishment also sought a consequential direction to the 2nd respondent to pass appropriate orders afresh in accordance with law.

2. Learned counsel for the Petitioner-Establishment (hereinafter referred to as 'the Establishment') submitted that the premises of the Establishment was closed and shifted to some other place, after conclusion of the hearing conducted by the EPF Authorities. It is further submitted that only on 30.03.2021, the Establishment came to know that their Bank Account was attached and since the Bank Account of the Establishment has been freezed, they are not able to disburse salary to the workers. It is also submitted that due to the Covid Pandemic situation, the Establishment has been facing severe financial crisis to pay the amount and that the amount arrived at by the EPF Organisation is also not correct and that no further opportunity has been given to them.

3. Per contra, learned counsel for the Respondents contended that as many as 57 opportunities have been given to the Establishment / Management and without intimating the change of address to the EPF Organisation, they have all of a sudden locked down their premises and shifted their office to far off place. It is further contended that the plea put forth by the Management that only after attachment of the Bank Account, they came to know about the Order of attachment in the month of March 2021, is not true. According to him, the Order copy had been despatched to the Management as early as in 2019, which has also been duly received by the Management. It is also contended that though the Management had the opportunity of preferring appeal under Section 7 (I) of the EPF Act, 1952, the said provision has not been invoked by them in time and in view of the same, the Tribunal cannot now entertain any appeal due to lapse of time.

4. In reply to the above contention, it is reiterated by the Management that even assuming for the sake of argument that the Order copy was duly forwarded to the Management much earlier, no explanation is forthcoming as to what made them (EPF Organisation) to wait for four long years to attach the Bank Account of the Management and therefore, it can be inferred that they had taken a decision earlier and communicated only recently along with the Bank attachment. It is also stated that the



intimation was given only in March 2021, which was received by the Management in April 2021.

5. Heard both sides and perused the materials available on record.

6. It is not in dispute that there was a default in contribution and that there was an adjudication under Section 7 (A) of EPF Act, 1952 for determination of regular contribution dues to the Provident Fund, Pension Fund, Insurance Fund and Administrative Charges for the period from 10/2013 to 01/2015. It is also not disputed that the Establishment was shifted to a new premise, which has not been disclosed to the EPF Organisation. The question as to whether the intimation of attachment was given as early as in the year 2019 or only in 2021, can be decided only by the EPF Tribunal, while deciding the issue under Section 7 (I) of EPF Act, if any filed. When this Court posed a question to the Management with regard to deposit of Rs.10,00,000/- as an interim measure, it was replied that they are in a position to deposit only Rs.7,00,000/-.

7. Considering the facts and circumstances of the case and in view of the submission made by the Management that a sum of Rs.7,00,000/- can be deposited, this Writ Petition is disposed of with the following directions:

i) The Petitioner/Management shall deposit Rs.7,00,000/- within 60 days from the date of receipt of a copy of this order and on such deposit, the Bank Account, that has been freezed, shall be permitted to be operated;

ii) The Petitioner/Management, after deposit of Rs.7,00,000/- shall file an application under Section 7 (I) of the Act, before the Tribunal within one month from the date of deposit and on receipt of any such application, all the issues regarding the nature of litigation, the opportunity of being heard given or not, the correctness of determination of the amount, etc., can be decided by the Tribunal, within a period of one year from the date of presentation of the application.

8. The aforesaid arrangement has been made only for the purpose of disposal of waiver application and it cannot, at any stretch of imagination, be construed that the delay beyond 120 days has been condoned. This Court wants to emphasize that in case of shifting of the Petitioner-Establishment to some other newer place in future, it is mandatory on the part of the Establishment to inform the complete postal address, E-mail ID, phone numbers, etc, to the EPF Organisation, so as to enable them to forward the communication to the Management well in



advance. No costs. Consequently connected miscellaneous petition is also closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

dpq

To

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+1 CC to M/s. Chennai Law Associates, Sr 29515.

W.P.No.12069 of 2021

PL (CO)
LS (22/07/2021)