



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.03.2021

CORAM:
THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

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W.P. (MD)No.12480 of 2010
and
M.P. (MD)Nos.1 of 2010 and 1 of 2012

Madura Coats Private Limited,
New Jail Road,
Madurai - 625 001.
Rep. by its Group Industrial
Relations Manager.

... Petitioner

versus

Regional Provident Fund Commissioner-II (C&R)
Employees Provident Fund Organization,
Lady Doak College Road,
Chokkikulam,
Madurai - 625 002.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the records of the respondent in Proceedings No.TN/MDU/157/Enf./Circle 7/2010 dated 27.09.2010 and quash the same.

For Petitioner : Mr.Anand Gopalan

For Respondent : Mr.V.S.V.Venkateshvaran

ORDER

This writ petition has been filed seeking for the issuance of Writ of Certiorari, to call for the records of the respondent in Proceedings No.TN/MDU/157/Enf./Circle 7/2010 dated 27.09.2010 and quash the same.

2. The case of the petitioner is that the petitioner is having a Textile Mill in New Jail Road, Madurai. It is an establishment covered under the Employee's Provident Fund and Miscellaneous Provisions Act. The petitioner has covered all the eligible employees under the EPF scheme and has been regularly paying the EPF contribution in respect of those employees. The said scheme requires every employer to send to the PF Commissioner within one month of the close of the period of currency, a consolidated Annual Contribution Statement in Form 6-A, showing the total amount of



recoveries made during the period of currency from the wages of each member and the total amount contributed by the employer in respect of each such member for the said period. The wages, other allowances and service conditions of petitioner's Mills are governed by long term settlements made with unions from time to time under the provisions of the Industrial Disputes Act and one such long term settlement came to an end on 30.06.1998. The petitioner is also having textile mills in Ambasamudram and Tuticorin. They are also covered by the similar settlements. After the expiry of said long term settlement, the unions representing the workmen in all the three units gave a charter of demand for revision of wages. In spite of earnest efforts, no settlement could be arrived at. Therefore, the workmen of the Mill at Madurai went on strike from 31.05.1999. There were series of disputes between the Management and Workmen. In the year 2001, the respondent took the stand that the interim relief of Rs.260/- provided for by the settlement dated 10.08.1999 should be treated as back wages for the purpose of PF and the contribution should be remitted on the said amount to the EPF Organisation. The respondent, vide letter dated 11.07.2001, directed the petitioner to pay contribution on the interim relief. Challenging the same, the petitioner filed a writ petition in W.P.No.14282 of 2011. This Court, vide order dated 11.07.2001, set aside the proceedings of the respondent dated 11.07.2001, however, gave liberty to the respondent to initiate proceedings under Section 7A of the EPF Act. Thereafter, on 25.05.2010, the respondent initiated enquiry under Section 7A of the Act demanding contribution on the interim relief for the period 08/99 to 09/07. On 30.06.2010, the petitioner gave a reply making its submissions as to why the interim relief could not be treated as basic wages for the purpose of payment of contribution to EPF. However, the respondent passed an order dated 27.09.2010, determining the contribution at Rs.1,64,11,225.95 for the period from 01.08.1999 to 11.09.2007. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that though the petitioner made a request to furnish a copy of the enquiry report, the same was not considered and without giving an opportunity of personal hearing, the impugned order was passed, which is impermissible. Therefore, he prayed for remanding the matter to the respondent for fresh consideration.

4. The learned counsel appearing for the respondent has no serious objection for remanding the matter back to the original authority for the purpose of re-adjudication.

5. Though the petitioner requested the authority to furnish a copy of the report of the Enforcement Officer and also requested for providing an opportunity of personal hearing, the same were not considered by the authority. Therefore, in order to provide an opportunity of personal hearing, this Court is of the view that the matter should be remanded back to the respondent for re-adjudication.



6. In view of the above, the writ petition is allowed, setting aside the impugned order dated 27.09.2010 passed by the respondent herein. The matter is remitted back to the respondent for re-adjudication. The respondent shall furnish a copy of the enquiry report within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the petitioner is directed to appear for the enquiry as may be fixed by the first respondent. The first respondent, after conducting the enquiry by affording reasonable opportunity, shall pass appropriate orders within six weeks from the date of appearance of the petitioner in the enquiry. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

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/ /2021

Sub Assistant Registrar(CS)

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To

The Regional Provident Fund Commissioner-II (C&R)
Employees Provident Fund Organization,
Lady Doak College Road,
Chokkikulam,
Madurai - 625 002.

W.P. (MD) No.12480 of 2010

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RRS (10.05.2021) 3P 2C