



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.14578 of 2011

and

M.P. (MD)Nos.1 & 2 of 2011

M/s.V.Ayyappan,
Transport Contractor,
Solaikulam,
Mangudi Post,
Thiruvarur District - 614 710.

... Petitioner

Vs.

1.The Presiding Officer,
Employees Provident Fund Appellate Tribunal,
(Ministry of Labour and Employment,
Government of India),
Scope Minar, Core II 4th Floor
Laxmi Nagar District Centre,
Laxmi Nagar, New Delhi-110 092.

2.The Assistant Provident Fund Commissioner
(Compliance),
Employees' Provident Fund Organization,
Sub Regional Office,
Sree Complex - Madurai Road,
Trichy-620 008.
Tamil Nadu State.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records pertaining to the order of the second respondent in his proceedings No.D4/TN/TR/43743/SRO-TRY/2008 dated 13.01.2008 and the order of the first respondent in his ATA.No.294(13) 2008 dated 15.07.2011 and quash the same as arbitrary and illegal.

For Petitioner	:	Mr.Arul Jenifer for Mr.K.Baalasundharam
For Respondents	:	Dr.R.Rajagopal Standing Counsel for R.2



ORDER

The Writ Petition is filed seeking for issuance of a writ of certiorari to call for the records pertaining to the order of the second respondent in his proceedings No.D4/TN/TR/43743/SRO-TRY/2008 dated 13.01.2008 and the order of the first respondent in his ATA.No.294(13) 2008 dated 15.07.2011 and quash the same as arbitrary and illegal.

2. The case of the petitioner is that based on the compliant given by one Sethupathi, Vigilance Wing of Employees' Provident Fund Organization inspected the petitioner's establishment in May 2006 and requested the petitioner to submit the balance sheet of the petitioner's concern for three financial years ie., 2003-04, 2004-05 and 2005-06. The Officials of vigilance, on perusing the balance sheets, informed that the Employees Provident Fund has to be paid for the total Hire income. Thereafter the petitioner received a summon notice dated 25.05.2007, under Section 7 of the EPF Act and he was required to produce all relevant records pertaining to enrolment of employees and disbursement of wages before Assistant Provident Fund Commissioner. After adjudication, the second respondent has taken the total receipt of the Hire income as wages and pass an order dated 13.01.2008 and directed the petitioner to pay a sum of Rs.1,09,590/- towards Provident Fund, Employees Pension Fund and Insurance Fund contributions and administrative charges towards Provident Fund and Insurance Fund for the period from 2003-04 to 2005-06.

3. Aggrieved by the said order, the petitioner preferred an appeal before the first respondent in ATA No.294(13)2008. The first respondent also, on erroneous grounds, confirmed the order of the second respondent by dismissing A.T.A.No.294(13)2008, dated 15.07.2011. Aggrieved by the said order of dismissal, the present writ petition is filed.

4. Learned Counsel appearing for the petitioner would submit that subsequently, the petitioner discontinued the transport business and suffered with financial constraints and hence, this Court may permit the petitioner, without adjudicating the issue, to pay the amount of Rs.1,09,590/-, which was arrived at by the first respondent on 13.01.2008, in ten (10) equal instalments.

5. Learned Counsel appearing for the second respondent has no serious objection for granting such relief as prayed by the petitioner.

6. In view of the above, the petitioner is permitted to pay the amount of Rs.1,09,590/-, which was arrived at by the first respondent on 13.01.2008, in ten (10) equal instalments commencing



7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(AE)

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/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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AS (25.05.2021) 3P 3C