



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P (MD)No.4220 of 2011

and

M.P. (MD)No.2 of 2011

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Raj Transport,
Transport Contractors,
15 Ayeekulam Road,
Kumbakonam-612 001,
Thanajvur District,
represented by its Proprietor,
Mr.S.V.Durairajan. ... 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,
Trichy-620 008. ... 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 2nd Respondent in his proceedings No.D3/TN/TR/43591 SRO-TRY/2007 dated 29-11-2007 and the order of the 1st Respondent in his ATA.No.118(13) 08 dated 28-01-2011 and ATA.No.609(13) 2009 dated 08-02-2011 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.D3/TN/TR/43591 SRO-TRY/2007 dated 29-11-2007 and the order of the first Respondent in his ATA.No.118(13)08, dated 28-01-2011 and ATA.No.609(13) 2009, dated 08-02-2011 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 amount received from ONGC. Thereafter the petitioner received a summon under Section 7 of the EPF Act in the year 2006 and he was required to produce all relevant records pertaining to enrolment of employees and disbursement of wages before Assistant Provident Fund Commissioner on 15.12.2006. After adjudication, the second respondent has taken the total receipt of the amount from ONGC as wages and passed an order dated 29.11.2007 and directed the petitioner to pay a sum of Rs.4,57,930/- 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 of dismissal, the petitioner preferred an appeal before the first respondent in ATA No.118(13)08, dated 09.02.2011 and thereafter, the said appeal was renumbered as ATA No.609(13)09. The first respondent also, on erroneous grounds, confirmed the order of the second respondent by dismissing ATA No.118(13)08, dated 28.01.2011 and ATA No.609(13)09, dated 08.02.2011. 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.4,57,930/-, which was arrived at by the first respondent on 29.11.2007, in thirty (30) 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.4,57,930/-, which was arrived at by the first respondent on 29.11.2007, in thirty (30) equal instalments commencing from 15.04.2021.

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

Sd/-

Assistant Registrar ()

// True Copy //

/ /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

1.The Presiding Officer,
Employees Provident Fund Appellate Tribunal,
(Ministry of Labour and Employment,
Government of India),
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Laxmi Nagar District Centre,
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2.The Assistant Provident Fund Commissioner
(Compliance),
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W.P(MD)No.4220 of 2011

31.03.2021

(CO)
HB(24.04.2021) 3P 3C