



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)Nos.7847 & 7848 of 2021

and W.M.P(MD)Nos.5980, 5981, 5982 and 5983 of 2021

WEB COPY

W.P(MD)No.7847 of 2021:-

M/s.Sri Ramalinga Mills Limited, "B" Unit,
1, Sayalgudi Road, Savvaspuram Village,
Kulasekaranallur, Ramasamy Nagar,
Aruppukottai - 626 105,
Virudhunagar District.
Rep. by its General Manager.

... Petitioner

vs.

1.The Regional Provident Fund Commissioner - II,
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Chokkikulam,
Madurai - 625 002.

2.The Assistant PF Commissioner (PDC),
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Chokkikulam,
Madurai - 625 002.

3.The State Bank of India,
Aruppukottai Branch,
Aruppukottai,
Rep. by its Branch Manager.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned order passed by the second respondent in his proceedings No.MD/MDU/PDC/R/MD MDU/37930/8F/806/2021, dated 26.03.2021 and quash the same as illegal.

For Petitioner : Mr.M.E.Ilango
For RR 1 & 2 : Mr.A.John Xavier



W.P(MD)No.7848 of 2021:-

M/s.Sri Ramalinga Mills Limited, "B" Unit,
1, Sayalgudi Road, Savvaspuram Village,
Kulasekaranallur, Ramasamy Nagar,
Aruppukottai - 626 105,
Virudhunagar District.
Rep. by its General Manager.

... Petitioner

vs.

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3.The State Bank of India,
Aruppukottai Branch,
Aruppukottai,
Rep. by its Branch Manager.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned order passed by the second respondent in his proceedings No.MD/MDU/PDC/SPL/MD MDU/37930/8F/806/2021, dated 09.03.2021 and quash the same as illegal.

For Petitioner : Mr.M.E.Ilango
For RR 1 & 2 : Mr.A.John Xavier

COMMON ORDER

These Writ Petitions are filed seeking Writs of Certiorari, to quash the impugned notices issued by the second respondent, dated 26.03.2021 and 09.03.2021, respectively.

2.According to the petitioner, due to slump in business and various factors beyond the control of the Management, they could not remit the EPF contribution for the period from 04/16 to 01/18 and 06/17 to 02/19 respectively, in time. But, they remitted the entire amounts subsequently. While so, the first respondent passed an order



under Section 7-Q as well as Section 14-B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, demanding interest of Rs.14,41,167/- and damages amounting to Rs.29,85,365/- totalling Rs.44,26,532/- and also an interest of Rs.8,31,418/- and damages amounting to Rs.16,62,485/-, totalling Rs.24,93,903/- respectively. Thereafter, the second respondent, vide impugned notices dated 26.03.2021 and 09.03.2021, directed the third respondent Bank to appropriate the sum of Rs.44,26,532/- and Rs.24,93,903/- respectively, from the petitioner's Bank account and remit it to the EPF Organization. Challenging the said notices, the petitioner has come forward with the present Writ Petitions.

3.The learned counsel appearing for the petitioner submitted that the order passed under Section 14-B of the EPF Act is appealable and the petitioner has the time limit till 07.07.2021 and 16.06.2021 respectively, to file appeals. Before expiry of the time limit for filing appeals, the second respondent has issued the present impugned notices dated 26.03.2021 and 09.03.2021 under Section 8-F of the EPF and M.P. Act, 1952, directing the third respondent Bank to appropriate the aforesaid amounts from the petitioner's Bank account and remit it to the EPF Organization.

4.The learned counsel appearing for the petitioner relying on the decision of the Honourable Apex Court in Miscellaneous Application No.665/2021 in SMW(C)No.3/2020, dated 27.04.2021, and the order of the Hon'ble First Bench of this Court in Suo Motu W.P.No.11993 of 2021, dated 17.05.2021, submitted that the Hon'ble Apex Court extended the period of limitation as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, till further orders and prayed for allowing the present Writ Petitions.

5.Heard the learned counsel appearing the petitioner and the learned counsel appearing for the respondents 1 and 2.

6.Earlier, the petitioner filed Writ Petitions in W.P(MD) Nos.7839 and 7842 of 2021, to quash the orders demanding interest and permit the petitioner to pay the interest amount of Rs.8,31,418/- in 20 monthly installments and another interest amount of Rs.14,41,167/- in 30 monthly installments.

7.In the said W.P(MD)Nos.7839 and 7842 of 2021, this Court, by order dated 17.04.2021, passed the following order insofar as the order passed under Section 7Q of the Act is concerned:-

"Considering the fact that the petitioner has remitted the entire contributions payable under EPF Scheme and the submissions of the learned counsel appearing on either side, without setting aside the impugned orders of the respondent passed under Section 7Q of the EPF Act, the petitioner is permitted to pay



the amount of Rs.8,31,418/- in 15 equal monthly installments and another amount of Rs.14,41,167/- in 20 equal monthly installments on every 5th day of English Calendar month starting from 5th May, 2021. The first installment shall commence by making payment on or before 5th May, 2021 and if the petitioner commits default of any two installments, the entire amounts would become due immediately and the respondent is entitled to recover the balance amount, as per the procedure contemplated under the EPF Act."

8.As far as damages under Section 14-B of the Act is concerned, it is appealable order. In W.P(MD)No.7847 of 2021, the petitioner has time till 07.07.2021 and in W.P(MD)No.7848 of 2021, the petitioner has time till 16.06.2021, for filing appeals.

9.Even before expiry of the time limit for filing appeals before the Tribunal, the second respondent issued the impugned notices directing the third respondent to appropriate a sum of Rs.44,26,532/- and 24,93,903/- respectively from the petitioner's Bank Account and remit the same to the EPF organization.

10.Considering the fact that the order passed under Section 14-B of the Act is appealable and the petitioner has time till 07.07.2021 and 16.06.2021 respectively for filing the appeals and the Hon'ble Apex Court vide order dated 27.04.2021 in Miscellaneous Application No.665/2021 in SMW(C)No.3/2020, extended the period of limitation as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings till further orders, the impugned notices, dated 26.03.2021 and 09.03.2021, are liable to be set aside and they are hereby set aside. If the appeals are filed in time or as per the extended period of time by the Hon'ble Apex Court, by the petitioner, the Tribunal is directed to consider the same and entertain the appeals and it is open to the respondents to initiate appropriate action, if the petitioner fails to file the appeals in time or within the extended period of time granted by the Hon'ble Apex Court.

11.With the above directions, these Writ Petitions are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

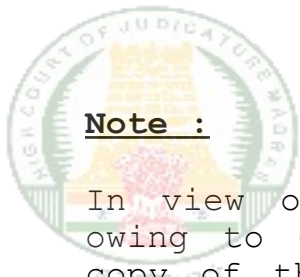
Sd/-

Assistant Registrar(T & P)

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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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Rep. by its Branch Manager.

**W.P (MD) Nos.7847 & 7848 of 2021
14.06.2021**

SGS (CO)
TR(18.06.2021) 5P 4C