



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P(MD) No.19536 of 2021

and

W.M.P(MD) No.16224 of 2021

WEB COPY

M/s. Jumbo Fireworks (India) Private Ltd.,
80, Bell Villa, Velayutham Road,
Sivakasi,
Rep. by its Director.

... Petitioner

Vs.

The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Regional Office,
NGO "B" Colony,
Tirunelveli-627 007.

... Respondent

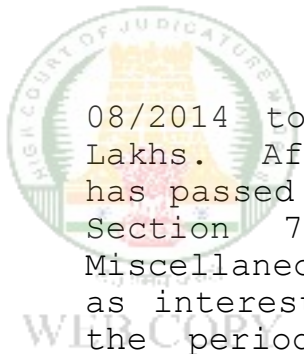
PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings in No. CBE/TNY/PDC-1(1)/89015/2020 dated 28.01.2021 and quash the same and permit the petitioner to remit the 14 B damages and 7Q interest totaling a sum of Rs.8,32,965/- in 24 equal monthly installments and to pass such further or other Orders as this Court.

For Petitioner	: Mr.K.Hemakarthikeyan
For Respondent	: Mr.V.S.V.Venkateshwaran, Standing Counsel.

O R D E R

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings in No. CBE/TNY/PDC-1(1)/89015/2020 dated 28.01.2021 and quash the same and permit the petitioner to remit the 14 B damages and 7Q interest totaling a sum of Rs.8,32,965/- in 24 equal monthly installments.

2. According to the petitioner, the petitioner's company was running one Jumbo Fireworks unit on lease basis in Natarajapuram, Elathur, Shencottai, Tenkasi District. Due to worst market conditions and connected factors, the petitioner has incurred heavy loss and were unable to run the said unit and handed over the same to the said party and closed its unit from 21.08.2017 and informed the same to the respondent by letter dated 31.07.2018. Therefore, he was unable to settle the EPF dues in time for the period from



08/2014 to 08/2018 and they had accumulated loss for about 400 Lakhs. After remitting the dues to the respondent, the respondent has passed two separate orders dated 19.11.2020 and 27.11.2020 under Section 7Q and 14B of the Employees Provident Funds and Miscellaneous Provisions Act, 1952, claiming a sum of Rs.2,77,037/- as interest and a sum of Rs.5,55,928/- as damages respectively for the period 08/2014 to 08/2018. The petitioner has made a representation to the authority to permit them to clear the outstanding dues by providing 24 equal monthly installment for a total sum of Rs.8,32,965/- for the delay caused in the payment of EPF. So far, no communication has been received from the respondent. Hence, he filed the present writ petition.

3. Mr.V.S.V.Venkateshwaran, the learned Standing Counsel appearing for the respondent, would submit that the petitioner's request for settling the outstanding due in 24 monthly installments is a longer period and agreed for only 10 equal monthly installments.

4. Both the parties have not disputed on the payment of interest. The dispute between the petitioner and the respondents is only with regard to the months of installements in which the amount had to be settled and the said request made by the petitioner was not accepted by the respondent by stating that the it is a longer period.

5. In the interest of the justice and taking into account the present Covid-19 pandemic situation, this Court is inclined to pass the order as follows:

i) The petitioner is directed to pay the amount of Rs.8,32,962/- payable by him under Section 14 B and 7 Q of the ESI Act to the respondent by way of 12 equal monthly installments.

ii) The said amount shall be paid by the petitioner on or before 15^h of every succeeding month and the first installment commences from first December, 2021.

iii) If there is any default in the payment of the monthly installments by the petitioner, liberty is granted to the respondent to act in accordance with law.

6. With the above directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-I)

// 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

The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Regional Office,
NGO "B" Colony,
Tirunelveli-627 007.

**W.P (MD) No.19536 of 2021
29.10.2021**

RK/PM(17/11/2021) 3P 2C