



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2021

C O R A M

WEB COPY

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P. (MD) No.3710 of 2014
and
M.P. (MD) No.1 of 2014

Sri Naga Nanthana Mills Ltd.,
Vakkanankundu Post,
Aruppukottai Taluk,
Virudhunagar District,
through its Director.

... Petitioner

Vs.

1.The Presiding Officer,
Employees Provident Appellate Tribunal,
Scope Minor, Core-II-4th Floor,
Lakshmi Nagar,
New Delhi-110 092.

2.The Regional Provident Fund Commissioner No.II,
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Chokkikulam,
Madurai-625 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorari, to call for the records from the file of the first respondent herein in No.ATA 25(13)/2014 and to quash the interim order dated 16.01.2014 passed therein.

For Petitioner : Mr. M.R.Sreenivasan

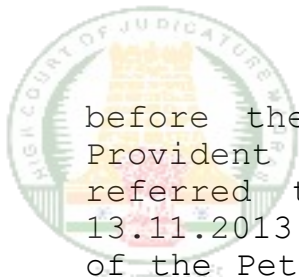
For Second Respondent : Mr. K.Muralisankar

ORDER

(through video conference)

Heard Mr. M.R.Sreenivasan, Learned Counsel for the Petitioner and Mr. K.Muralisankar, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

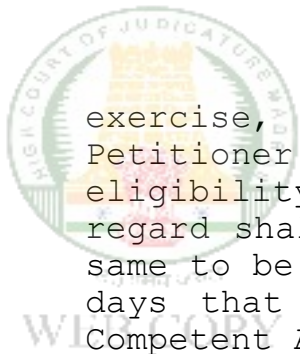
2. The Petitioner preferred an appeal in A.T.A. No. 25(13) of 2014
<https://hcservices.ecourts.gov.in/hcservices/>



before the First Respondent under Section 7-I of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the 'Act' for short) against the order dated 13.11.2013 passed by the Second Respondent determining the liability of the Petitioner for provident fund dues for the period from March 2013 to August 2013 for Rs. 18,91,500/- under Section 7-A of the Act. In terms of Section 7-O of the Act, the Petitioner is required to deposit 75% of the amount that has been determined in the order impugned in the appeal as condition for entertaining the same and the First Respondent for reasons to be recorded in writing has discretion to waive or reduce to that amount. The First Respondent in the order dated 16.01.2014 passed in that appeal held that the financial crunch expressed by the Petitioner cannot be an acceptable reason to waive the condition of pre-deposit as held by various High Courts and directed the Petitioner to deposit 75% of the determined amount with the Second Respondent within a period of four weeks from the date of that order and subject to compliance of that condition, had stayed the order impugned in that appeal till its disposal. The present Writ Petition has been filed challenging the said order passed by the First Respondent and this Court at the time of admission on 28.02.2014 had passed an interim order of stay which continues to be in force.

3. Apart from the fact that the recovery of the provident fund dues has been stayed due to the aforesaid interim order, it is noticed from the memorandum of appeal in A.T.A. No. 25(13) of 2014 before the First Respondent and the contents in the affidavit filed in support of the Writ Petition that the Petitioner does not have any real dispute on the amount determined by the Second Respondent in the order dated 13.11.2013 passed under Section 7-A of the Act and the request of the Petitioner was only to permit the said amount to be remitted in installments. Viewed from that perspective, it is expected that the Petitioner would have cleared the provident fund dues owed by now and there would be no necessity to prosecute the appeal in A.T.A. No. 25(13) of 2014 before the First Respondent at this distance of time.

4. However, if the Petitioner has not yet remitted the provident fund dues in entirety and requires time to pay the remaining amount due in installments, it may immediately make a representation to the concerned authority invoking the Circular No.RRC/28(23)06/BIFR/23781 dated 11.02.2014 and the Circular No. RRC/28(23)06/BIFR/3345 dated 12.05.2014 issued by the Central Provident Fund Commissioner. If such representation is made for permitting payment of the accumulated arrears in installments, this Court, without expressing any view on the correctness or entitlement of the claim made by the Petitioner in that regard, requires the Competent Authority to duly consider the same with reference to the parameters stipulated in the aforesaid circulars and pass reasoned orders on merits and in accordance with law and communicate the decision taken to the Petitioner in writing. The Petitioner is directed to file a written acknowledgment. Before carrying out that



exercise, if the Competent Authority is of the view that the Petitioner has not satisfied the prescribed requirements or eligibility criteria for that benefit, the deficiencies in that regard shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 10 working days that may be granted for that purpose. In the event of the Competent Authority being of the opinion that the Petitioner has not satisfied the same even thereafter, an enquiry shall be conducted affording an opportunity of personal hearing to the Petitioner to explain its position regarding such compliance. It is made clear that in the event of failure of the Petitioner to make payment of the provident fund dues even thereafter, the Second Respondent may proceed to recover the amount due in accordance with law.

5. In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

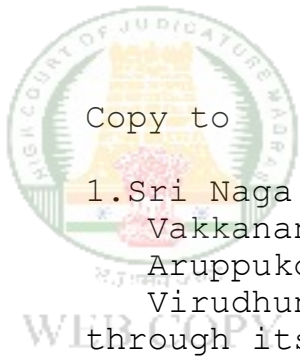
Note: (i) Issue order copy by 16.06.2021.

(ii) 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.

ta/dm

To

The Presiding Officer,
Employees Provident Appellate Tribunal,
Scope Minor, Core-II-4th Floor,
Lakshmi Nagar,
New Delhi-110 092.



Copy to

1.Sri Naga Nanthana Mills Ltd.,
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through its Director.

2.The Regional Provident Fund Commissioner No.II,
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Chokkikulam,
Madurai-625 002.

+1 CC to M/s.K.MURALI SANKAR, Advocate (SR-17993[F] dated
29/04/2021)

W.P. (MD) No.3710 of 2014

29.04.2021

GS (16.06.2021) 4P 5C