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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 25.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. No.40416 of 2016

WMP No.34479 of 2016

M/s.Prime Urban Development India Ltd.  
rep. by its DGM (FINANCE)  
Mr.S.Udayananda  
110 Prime Enclave Vistas  
P.101 Pearl C 8th Floor Avinasi Road  
Tirupur 641 603

... Petitioner

Vs

- 1 Central Provident Fund  
Commissioner, Central PF Commissioner Office  
Bihiji Cama Place R.K.Puram New Delhi
- 2 The Regional PF Commissioner  
EPF Organization Regional Office Dr.  
Balasundaram Road Coimbatore 641 018.
- 3 The Assistant PF Commissioner  
EPF Organization Regional Office  
Dr.Balasundaram Road Coimbatore 641 018.  
(R2 R3 Cause Title Amended Vide Order  
DT 22.12.2021) ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari calling for the records of the 3rd respondent in Ref. NO.CB/CBE/PDC- II/CC-23/ 46/ INTEREST/2016 dated 7.9.2016 and quash the same.

For Petitioner ... Mr.S.Gunalan  
For Respondents ... Ms.R.Meenakshi

O R D E R

The petitioner is a limited company registered under the Companies Act, 1956 and was covered under the Employees'



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Provident Fund and Miscellaneous Provision Act, 1952. The present writ petition is against the claim of interest to the tune of Rs.2,47,905/- in terms of the demand notice dated 07.09.2016 for the belated remittances relating to the period from January, 2014 to September, 2015.

2. This Court finds that as far as interest component is concerned, there is no question of grant of any waiver. Moreover, this Court, in the exercise of its Constitutional jurisdiction, cannot delve into the factual disputes as to whether the interest was rightly levied or not. The grounds as raised in the affidavit are premised on certain factual details in regard to certain remittances made by the company. Such explanation offered by the petitioner company against the demand notice cannot be the subject-matter of adjudication in the writ jurisdiction.

3. On behalf of the respondent organization, a decision of the Hon'ble Supreme Court in the case of Horticulture Experiment Station Gonikoppal, Coorg and Regional Provident Fund Organisation (C.A.No.2136 of 2012 dated 23.02.2022) was circulated, wherein the Hon'ble Supreme Court has held that mens rea consideration was no more available. In any event, as far as the claim towards the interest is concerned, no waiver could be claimed in the scheme of the Provident Fund Act.

4. When this Court was inclined to dismiss the writ petition, learned counsel for the petitioner would request this Court to allow payment of interest in three installments, commencing from 15.03.2022. According to the learned counsel, the petitioner may be permitted to remit the first equated monthly installment on 15.03.2022, followed by two other equated monthly installments on 15.04.2022 and 15.05.2022.

5. Considering the request made by the petitioner and also the facts and circumstances of the case stated in the affidavit, the writ petition is dismissed, but with the liberty as sought for.

6. Accordingly, the petitioner is permitted to make the payment in terms of the demand notice in the writ petition in three equated monthly installments, and the first of such installment shall commence from 15.03.2022, followed by the second and third installments on 15.04.2022 and 15.05.2022, respectively.



7. It is made clear that this being a concessional order, the time-line as mentioned above has to be strictly adhered to by the petitioner.

8. The writ petition is otherwise dismissed with the above directions. There will be no order as to costs. Consequently, W.M.P.No.34479 of 2016 is closed.

SD/-  
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

- 1 The Commissioner,  
Central Provident Fund,  
Central PF Commissioner Office,  
Bihiji Cama Place,  
R.K.Puram New Delhi.
- 2 The Regional PF Commissioner,  
EPF Organization Regional Office Dr.  
Balasundaram Road,  
Coimbatore 641 018.
- 3 The Assistant PF Commissioner,  
EPF Organization Regional Office,  
Dr.Balasundaram Road,  
Coimbatore 641 018.

+1cc to M/s.R.Meenakshi, Advocate Sr.12847

+1cc to Mr.R.Manoharan, Advocate Sr.12863

W.P. No.40416 of 2016

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srg 17/03/2022