



W.P. No.33946 of 2022

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 16.12.2022

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. No.33946 of 2022

and

W.M.P. No.33433 of 2022

SMR Enterprises
Rep. by its Partner
No.309/133, Solaiappan Street
Old Washermenpet
Chennai 600 021.

.. Petitioner

VS

1. Employees Provident Fund Organisation
Rep. by its Assistant Provident Fund commissioner (C&R)
Regional Office, No.37, Royapettah High Road
Chennai 600 014.

2. The Recovery Officer
Employees Provident Fund Organization
Regional Office, No.37, Royapettah High Road
Chennai 600 014.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the concerned records from the first respondent, quash the order of the first respondent bearing No.CHN1/TN/1524987/12/Enf./Regl/19-20 dated 30.06.2020 as illegal, arbitrary, contrary to law or in the alternative direct the first respondent to



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decide the Review Petition filed by the petitioner dated 05.12.2022 under Section 7B of the Employees Provident Fund and Miscellaneous Provisions Act preferred against the order of the first respondent dated 30.06.2020 bearing No.CHN1/TN/1524987/12 /Enf./Regl/19-20 in accordance with law and on its merits.

For Petitioner : Mr.Balan Haridas
For Respondents : Mr.K.Ramu
Standing Counsel

ORDER

By consent of both the parties, this writ petition has been taken up for final disposal at the admission stage itself.

2. Mr.K. Ramu, learned Standing counsel accepts notice for the respondents.

3. The petitioner has challenged the order dated 30.06.2020 passed by the first respondent under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Under the said order, the respondents have determined the EPF contributions, payable by the petitioner at Rs.47,15,028/. Subsequently, a recovery order has also been issued.



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4. According to the petitioner, a sum of Rs.20,90,970/- was paid by its Contractor towards the EPF contribution, which was not accounted for in the order dated 30.06.2020, passed by the first respondent under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

5. Under those circumstances, the petitioner has filed a review petition on 05.12.2022 under Section 7B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952. Admittedly, the petitioner has not preferred a statutory appeal before the Central Government Industrial Tribunal as against the impugned order dated 30.06.2020 passed by the first respondent under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, instead, he has chosen to file a writ petition on the ground that his review petition filed under Section 7B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 has not been considered by the first respondent.

6. Heard Mr.Balan Haridas, learned counsel for the petitioner and Mr.K.Ramu, learned Standing counsel for the respondents 1 and 2.

7. The only limited relief that can be granted to the petitioner is to



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direct the first respondent to pass final orders on merits and in accordance with law on the petitioner's review petition dated 05.12.2022, as stated supra, within a time frame to be fixed by this Court.

8. Since the learned counsel for the petitioner seeks for an interim protection for the petitioner with regard to the recovery of the determined amount, this Court is inclined to grant such an interim protection, provided, the petitioner deposits with the first respondent a sum of Rs.5,00,000/- (Rupees five lakhs only), within a period of one week from the date of receipt of a copy of this order. On deposit of the said sum by the petitioner, this Court directs the first respondent to pass final orders in the review petition dated 05.12.2022 filed by the petitioner under Section 7B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 on merits and in accordance with law, within a period of four weeks thereafter.

9. Till the final orders are passed, subject to the condition that the petitioner deposits Rs.5,00,000/- with the first respondent as stated supra, within the stipulated time, it is made clear that no coercive steps shall be



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taken against the petitioner by the respondents.

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10. With the aforesaid, the writ petition is disposed of. There will be no order as to costs. Consequently, the connected miscellaneous petition is closed.

16.12.2022

Index: Yes/No

Speaking order/Non-speaking order

drm/vsi2

To

1. The Assistant Provident Fund Commissioner (C&R)
Employees Provident Fund Organization
Regional Office, No.37, Royapettah High Road
Chennai 600 014.
2. The Recovery Officer
Employees Provident Fund Organization
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ABDUL QUDDHOSE, J.

(drm)

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