



W.P.No.33890 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2022

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.33890 of 2022
and
W.M.P.No.33374 of 2022

M/s.Hatsun Agro Products Ltd.,
Rep. by its Authorised Signatory - B.Muthunathan,
SF No.150/1, Door No.7/37,
Attur Main Road,
Karumapuram Village,
Salem - 636 106.

... Petitioner

Vs.

Regional PF Commissioner - II,
Employees' Provident Fund Organisation,
(Ministry of Labour, Govt. of India)
Regional Office,
Steel Plant Road, Dalavaipatti,
Salem - 636 302.

... Respondent

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in proceedings No.CB/RO/SLM/Comp-I/7A/Proceedings/34923/S-2/2022 and quash its order dated 29.11.2022 and consequently direct the respondent to rehear the enquiry by giving reasonable opportunity to the petitioner.



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For Petitioner : Mr.S.Bazeerahamed

For Respondent : Mr.R.Vishnu
Standing Counsel

ORDER

The petitioner has challenged the impugned order passed by the respondent under Section 7 A of the Employee's Provident Fund Act, determining the amount of Employee's Provident Fund (Hereinafter referred to as EPF) contributions payable by the petitioner at Rs.1,01,27,340/-.

2. Before the respondent, the petitioner has categorically contented that they are not liable to pay EPF contributions on the ground that they are not the employer of the respective persons for whom the EPF contributions were allegedly not paid. According to them, the respective transporters are the employers and not the petitioner.

3. The petitioner had participated in the enquiry proceedings on 21.09.2022. As seen from the impugned order, the petitioner had sent an e-mail dated 19.09.2022. Under the said e-mail, they had requested for an adjournment to the next month in order to file their written statement.



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Accordingly, the case was adjourned to 13.10.2022. The Assistant Manager of the petitioner appeared with an Authorisation Letter before the respondent and requested for further adjournment due to some administrative reasons and assured the respondent that the petitioner Management will file the proof affidavit on the next hearing date. Accordingly, the case was further adjourned to 28.10.2022. On 28.10.2022, the Authorised Manager of the petitioner appeared through virtual hearing. On that date, he had submitted the proof affidavit in the office of the respondent. The Manager - HR, the authorised representative of the petitioner Management on 28.10.2022 informed the respondent that the petitioner has placed all the records and also stated that they have remitted contributions in respect of all the eligible employees.

4. According to the petitioner, there is no lapse on their part as per their statement. The petitioner had also filed proof affidavit on 28.10.2022 as stated supra.

5. As seen from the impugned order dated 29.11.2022, though it states that it is a speaking order excepting for extracting the various



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Sections of the EPF Act as well as decisions rendered by various Constitutional Courts, the respondent has not considered the objections raised by the petitioner with regard to their liability to pay the EPF contributions on merits and in accordance with law. Without giving due consideration to the same, the respondent has determined the EPF contributions payable by the petitioner at Rs.1,01,27,340/- though the petitioner has categorically contended that they are not liable to pay the same on the ground that they are not the employer and it is only the respective transporters who are the employers.

6. Being a non speaking order and an order passed by violating the Principles of Natural Justice, as no physical hearing was granted to the petitioner despite a request made by them, the impugned order dated 29.11.2022 passed by the respondent has to be necessarily quashed. But, however, the petitioner has to be put on terms for quashing the impugned order. This Court after giving due consideration to the fact that a sum of Rs.1,01,27,340/- has been determined as the amount payable towards EPF Contribution, is of the considered view that the petitioner will have to deposit a sum of Rs.30,00,000/- with the respondent on or before



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11.01.2023 and on deposit of the said sum, the impugned order dated 29.11.2022 passed by the respondent shall stand quashed and the matter shall be remanded back to the respondent for fresh consideration from the stage of the present proceedings. The respondent shall pass final orders on merits and in accordance with law within a period of eight weeks from the date of receipt of the deposit of the sum of Rs.30,00,000/- by the petitioner within the stipulated time as directed by this Court. However, it is made clear that the deposit made by the petitioner pursuant to the directions given by this Court today shall be without prejudice to the rights and contentions of the petitioner in the main matter.

7. With the aforementioned directions, this Writ Petition is disposed of. No Costs. Consequently, the connected Writ Miscellaneous Petition is closed.

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Index : Yes/No
Speaking Order : Yes / No
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To

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- 1.The District Collector,
O/o.The District Collectorate,
Tiruvarur - Post & District.
- 2.The Assistant Director (Village Panchayath),
Office of the District Collectorate,
Tiruvarur - Post & District.
- 3.The Block Development Officer (Village Panchayath),
Office of the Block Development Officer,
Mannargudi - Post & Taluk,
Tiruvarur District.
- 4.The Panchayath Secretary,
Edayarnatham Panchayath,
Mannargudi - Post & Taluk,
Tiruvarur - 614 016.
- 5.The Panchayat President,
Edayarnatham Panchayath,
Mannargudi - Post & Taluk,
Tiruvarur - 614 016.
- 6.The Vice President,
Edayarnatham Panchayath,
Mannargudi - Post & Taluk,
Tiruvarur - 614 016.



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ABDUL QUDDHOSE. J.,

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