



W.P.(MD).No.16916 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD).No.16916 of 2022

and

W.M.P.(MD).Nos.12321 and 12322 of 2022

M/s.Jothi Chamber,
Represented through its Partner,
C.K.Selvaraj.

... Petitioner

Vs.

1.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional Office,
Bhavishya Nidhi Bhavan,
Chokkikulam,
Madurai – 625 002.

2.The Enforcement Officer,
Employees Provident Fund Organization,
Regional Office,
Bhavishya Nidhi Bhavan,
Chokkikulam,
Madurai – 625 002.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order issued by the first respondent in Diary No.834/2019 (File No.MD/MDU/1696566/7A Inquiry/M-13/2021) dated 07.04.2022 and quash the same as illegal, violative of natural justice and



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consequently directing the respondents to drop all further proceedings of the claim made through impugned order.

For Petitioner : Mr.R.Aravindan
For Respondents : Mr.A.John Xavier,
Standing Counsel.

ORDER

In the matter of determination of dues under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the first respondent herein had passed an impugned order, dated 07.04.2022, determining the dues at Rs.5,49,889/- for the period from 01/2018 to 02/2019, exclusive of interest and penal damages. The petitioner herein, though had participated in the enquiry at the initial stages, had failed thereafter to appear before the first respondent, which resulted in passing of the impugned order.

2. The learned counsel for the petitioner submitted that owing to the intervening COVID-19 pandemic and the proceedings being held through video conferencing, they were unable to properly represent the case before the first respondent herein and therefore, made an earnest request that an opportunity may be extended to them to participate in the 7A proceedings by setting aside the impugned order.



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3. The learned Standing Counsel appearing for the respondents submitted that ample opportunities were given to the petitioner herein on many occasions and all the hearing dates, on which the petitioner had not appeared, are reflected in the impugned order and therefore, there is no infirmity in the order of the first respondent.

4. The submission of the learned Standing Counsel for the respondents cannot be found fault with. As a matter of fact, the first respondent had recorded the dates on which the petitioner had failed to appear before him and had, ultimately, passed the impugned order, determining the dues of the petitioner. However, this Court intends to take a liberal view in view of the intervening COVID-19 pandemic period, which had caused inconvenience to many of the business establishments. In this background, if the petitioner is granted liberty to file an application under Section 7A(4) of the Act to set aside the order of the first respondent herein, within a stipulated time, the ends of justice could be secured.

5. Accordingly, the petitioner is granted liberty to file an application under Section 7A(4) of the Employees' Provident Funds and Miscellaneous Provisions Act before the first respondent herein, seeking for setting aside the



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order, within a period of two (2) weeks from the date of receipt of a copy of this order. On receipt of such an application, the first respondent herein shall pass appropriate orders, after giving due opportunity to both the petitioner, as well as the department, within a period of one (1) month from the date of receipt of the application. In case the first respondent restores the appeal in file, they shall endeavour to pass final orders on the main appeal, within a period of two (2) months from the date of passing of the final orders in the application under Section 7A(4) of the Act.

6. With the above liberty, this Writ Petition stands closed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

22.08.2022

Index : Yes / No
Internet : Yes/ No
Lm



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To

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M.S.RAMESH, J.

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