



W.P(MD)No.21726 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.21726 of 2022

and

W.M.P.(MD)Nos.15882, 15883 and 15884 of 2022

M/s.Excel Neat and Tidy Agency,
Rep. by its Proprietor,
V.Sriram,
L 295, Pillayar Palayam,
R.M.Colony,
Dindigul 624 001.

... Petitioner

Vs

1.The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional Office,
No.1, Lady Doak College Road,
Chokkikulam,
Madurai 625 002.

2.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
District Office, 16, A.R.S. Road,
Bava Lodge Building,
Nagal Nagar, Dindigul 624 003.

3.The Branch Manager,
Indian Overseas Bank,
Pattiveeranpatti,
Dindigul 624 211.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the record on the file of the Second Respondent issued to the Third Respondent in reference No. TN/MD/ MDU/ DO / DGL/ 97194/ M-14/ 8F/ 2022, dated 29.08.2022 for deducted the amount of Rs.11943886/- from petitioner Bank account and quash the same and to issue such other appropriate directions or orders to the First Respondent and grant such other remedy and relief to this petitioner

For Petitioner : Mr.M.N.Ramkumar

For Respondents : Mr.Anwar Shameen,
Standing Counsel for R1 & R2.
Mr.N.Dilip Kumar for R3.

ORDER

Heard the learned counsel on either side.

2.The petitioner had been called upon to pay a sum of Rs.1,10,54,907/- towards liability under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. The order was passed on 25.04.2022. The petitioner claims to have received the same on 10.05.2022. The petitioner did not file the appeal before the Tribunal in time. There was a delay of 53 days in filing the appeal. The condone delay petition is yet to be numbered. In the meanwhile, the authority has chosen to enforce the order passed under Section



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7A of the Act by attaching the petitioner's bank account. That led to the filing of the present writ petition.

3.The learned standing counsel for the respondents 1 and 2 points out that the petitioner's conduct indicates his lack of bonafides. According to him, nothing prevented the writ petitioner from filing the appeal in time. He also would state that a false averment has been made in the affidavit filed in support of the writ petition. Without conceding the case of the organization, the learned standing counsel submitted that if at all this Court is inclined to grant some relief to the writ petitioner, the writ petitioner should be put on appropriate terms. According to him, directing the petitioner to pay 30% of the demanded amount would meet the ends of justice.

4.Though the objection of the learned standing counsel for the respondents 1 and 2 are quite persuasive, I am of the view that when first appeal has been filed before the Tribunal, it may not be fair to enforce the primary order. It is true that the appeal was filed with delay of 52 days. The statute permits filing of appeal with delay but within a period of 60 days. It is for the Tribunal to consider the issue of condonation. On this ground, I am not inclined to non-suit the petitioner. The petitioner's counsel stated that there are



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about 160 employees on the rolls of the writ petitioner and that the admitted liability may at best comes to Rs.17,00,000/-. The learned counsel for the petitioner gives an undertaking that the petitioner would remit a sum of Rs.10,00,000/- towards their dues. On such remittance towards provident fund dues, the attachment of the petitioner's bank account would be raised forthwith and without any delay. The petitioner has to expeditiously prosecute the appeal filed before the Tribunal. He must endeavour to get not only the appeal numbered but also the stay petition disposed of within a period of four months. If within the aforesaid period of four months, the petitioner is unable to obtain interim order from the Tribunal, it is open to the Employees' Provident Fund Officers to proceed to enforce the order passed under Section 7A of the act. It is needless to mention that when the Tribunal considers waiver of pre-deposit application, the amount of Rs.10,00,000/- now directed to be paid will definitely be taken note of.

5.The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

14.09.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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