



W.P.(MD)No.22126 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.22126 of 2022

and

W.M.P(MD)Nos.16282 & 16283 of 2022

M/s.Nadar Saraswathi Matriculation
Higher Secondary School,
Represented by its Secretary
B.Jeyarajan
Theni Main Road,
Usilampatti,
Madurai – 625 532.

... Petitioner

Vs

1.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub-Regional Office,
1,Lady Doak College Road,
Chokkikulam,
Madurai – 625 002.

2.The Recovery Officer,
Employees Provident Fund Organization,
Sub-Regional Office,
1,Lady Doak College Road,
Chokkikulam,
Madurai – 625 002.

... Respondents



W.P.(MD)No.22126 of 2022

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the respondent herein in proceedings No. MD/MDU/M-3/57283/RO/RECOVERY/2022 dated 30.08.2022 and consequential order in PACHANAMA dated 14.09.2022 quash the same and consequently direct the respondents to accept the pending due in arrears.

For Petitioner : Mr.W.Pamelin

For Respondents : Mr.S.Anwar Sameem
Standing Counsel

ORDER

Heard the learned counsel on either side.

2. The writ petitioner is an establishment falling within the purview of Employees' Provident Funds and Miscellaneous Provisions Act, 1952. The first respondent passed an order under Section 7(A) of the said Act quantifying the petitioner's liability at Rs.17,72,805/- (Rupees Seventeen Lakhs Seventy Two Thousand Eight Hundred and Five only). Questioning the same, the petitioner filed an appeal before the Tribunal.

3. The petitioner filed a petition for waiver of the Pre-deposit amount. The petitioner was directed to pay 50% of the liability. Since the petitioner failed to pay the said amount, the appeal itself suffered dismissal. Questioning the dismissal order, W.P(MD)No.6182 of 2022 was filed.



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4. When this writ petition was listed yesterday (19.09.2022) for admission I indicated to the petitioner's counsel that I would be inclined to consider the petitioner's case if W.P(MD)No.6182 is withdrawn. The matter was therefore adjourned. After taking instructions from the writ petitioner, the learned counsel appearing for the petitioner withdrew W.P(MD)No.6182 of 2022. Now the petitioner's liability under Section 7(A) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 has become final. The petitioner has to necessarily clear the same. It is stated that the petitioner has so far paid some amount and the liability has come down to Rs.11,75,357/- (Rupees Eleven Lakhs Seventy Five Thousand Three Hundred and Fifty Seven only).

5. All that the petitioner wants is permission to clear the same in easy installments. The petitioner is a School. This Court can take judicial notice of the fact that on account of the pandemic striking the entire world, several sectors of economy took a real hit. Since the parents have lost their source of livelihood even fees could not be paid properly during 2020-22. I, therefore, accept the petitioner's contention that they are having some liquidity crunch. Taking note of the same, I permit the petitioner to clear their present liability under Section 7(A) of the said Act in six equal installments. The first installment shall be paid from **30.09.2022**. If the petitioner commits default in



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paying two successive installments, the entire liability will become due and it is open to the respondents to proceed to recover the same. The petitioner should of course continue to pay their current liabilities without any default. The petitioner gives an undertaking to abide by this direction. In view of the same, the attachment affected by the second respondent is lifted.

6. This writ petition is disposed of on these terms. Consequently, connected miscellaneous petitioners are closed. No costs.

21.09.2022

Index : Yes / No
Internet : Yes/ No
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Note: Issue Order Copy on 27.09.2022.

To

1.The Assistant Provident Fund Commissioner,
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Sub-Regional Office,
1,Lady Doak College Road,
Chokkikulam,
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2.The Recovery Officer,
Employees Provident Fund Organization,
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G.R.SWAMINATHAN, J.

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