



W.P.(MD)No.27907 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.(MD)No.27907 of 2022
and
W.M.P.(MD)No.21978 of 2022**

M.Gopalakrishnan

... Petitioner

Vs.

The Assistant Provident Fund Commissioner/
Recovery Officer,
Employees Provident Fund Organisation,
Sub-Regional Office,
No.65A, Water Tank Road,
Nagercoil,
Kanyakumari.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records pertaining to the impugned notice in MD/NKL/33181/Recy/EPF/CP-25/2022 dated 03.11.2022 issued by the respondent and quash the same.

For Petitioner : Mr.D.Nallathambi

For Respondents : Mr.M.Mahaboob Atith



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ORDER

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This Writ Petition has been filed to call for the records pertaining to the impugned notice in MD/NKL/33181/Recy/EPF/CP-25/2022 dated 03.11.2022 issued by the respondent and quash the same.

2. The learned counsel appearing for the petitioner would submit that the petitioner is running a Hotel in the name and style of M/s.Hotel Saravana. On 04.11.2019, the respondent inspected the petitioner's hotel and issued a notice dated 30.12.2019 to him to produce the balance sheet and Audited Accounts etc., for three years which were not maintained by the petitioner. However, he has been regularly making the payment towards EPF contribution. While so, on 22.04.2022, the respondent had initiated recovery proceedings without issuing any show cause notice providing the period and the amount and without serving the order under Sections 7A, 14B and 7Q of the Employees Provident Fund and Miscellaneous Provisions Act, 1952. Further, the bank account of the petitioner is attached under Section 8F of the Act and the impugned notice has been issued



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without considering the payments made by the petitioner. Hence, he prays for some time to deposit the entire amount in six installments, since the petitioner's hotel is in heavy loss.

3. The learned counsel appearing for the respondent submits that he has no objection if this Court fixes the installments within a reasonable period.

4. Considering the limited request made by the learned counsel appearing for the petitioner and the fact that the petitioner himself has come forward to deposit the entire amount in six installments, this Court is inclined to stay the impugned notice till the payment of the entire amount with the following directions:

- i. The petitioner is directed to pay a sum of Rs.5,80,333/- (Rupees Five Lakhs Eighty Thousand Three Hundred and Thirty Three only) on or before **19.12.2022**; a further sum of Rs.1,00,000/- (Rupees One Lakh only) on or before **19.01.2023** and the remaining amount of Rs.4,00,000/- (Rupees Four Lakhs only) shall be paid on or before



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19th of the respective month or till 19.05.2023.

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- ii. After the entire amount is deposited, the respondent may recall the impugned order;
- iii. In case of any default, the respondent is directed to proceed with the impugned notice in accordance with law.

5. Accordingly, this Writ Petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

12.12.2022

Index : Yes / No

Speaking Order : Yes / No

ssb

Note: Issue order copy on **15.12.2022**.

To

The Assistant Provident Fund Commissioner/
Recovery Officer,
Employees Provident Fund Organisation,
Sub-Regional Office,
No.65A, Water Tank Road,
Nagercoil,
Kanyakumari.



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M.DHANDAPANI,J.

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