



W.P.(MD)No.27986 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.(MD)No.27986 of 2022
and
W.M.P.(MD)No.22068 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 District.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records, pertaining to the impugned notice in MD/NKL/1601397/Recy/EPF/CP-25/2022 dated 03.11.2022 issued by the respondent and quash the same.



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For Petitioner : Mr.D.Nallathambi
For Respondent : Mr.M.Mahaboob Athiff

ORDER

This Writ Petition has been filed to call for the records pertaining to the impugned notice in MD/NKL/1601397/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 Sridevi. On 11.10.2019, the respondent inspected the petitioner's Hotel and issued notices dated 30.12.2019 and 21.01.2020 to him to produce the balance sheet and Audited Accounts etc., for the years 2016-17 and 2018-19 which were not maintained by the petitioner. However, he has been regularly making the payment towards EPF contribution. While so, on 19.10.2020, 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



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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 without considering the payments made by the petitioner. Hence, he prays for some time to deposit the entire amount in equal monthly 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 a sum of Rs.2,39,904/- on or before 05.01.2023 and the remaining amount of Rs.3,00,000/- in equal monthly 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.2,39,904/- (Rupees Two Lakhs Thirty Nine Thousand Nine Hundred and Four only) on or



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before **05.01.2023** and the remaining amount of Rs.3,00,000/- (Rupees Three Lakhs only) shall be paid in three monthly equal installments on or before the **3rd day of every month**, within a period of three months.

- 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.

13.12.2022

Index : Yes / No

Speaking Order : Yes / No

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Note: Issue order copy by 19.12.2022.



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To

The Assistant Provident Fund Commissioner /
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M.DHANDAPANI,J.

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