



WEB COPY



W.P.No.56 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2023

Coram

The HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.56 of 2023
and W.M.P.Nos.41 to 43 of 2023

M/s.Power Builders rep. By its
Assistant Manager (HR)
N.Vengatasubramanian,
No.57/27, Ellaimman Colony,
Teynampet, Chennai – 96.

.. Petitioner

vs

1.The Regional Provident Fund Commissioner Grade (II),
Employees Provident Fund Organisation,
Regional Office, Chennai South.

2.The Branch Manager,
Indian Bank,
46, C.P.Ramaswamy Road,
Abhiramapuram, Chennai – 18.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call for the entire records relating to proceedings initiated under provisions of 7A of Employees Provident Fund Act for the period of assessment made between 01.04.2014 and 31.07.2015 by the first respondent in Diary No.307/2016 dated 26.07.2022 and the consequential review order passed under provision of 7B in proceedings No.CH-2/TNMA



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54950/COMPL-DIV 19/7B-REJ/2022 dated 01.12.2022 under provision of 7B in proceedings No.CH-2/TN/54950/COMP-DIV 19/8F-REGL/2022 dated 14.12.2022 issued by the first respondent and quash the same.

For Petitioner : Mr.M.Sriram
For Respondents : Mr.R.Vishnu
Standing Counsel

ORDER

The petitioner is aggrieved by the impugned order passed under the Employee's Provident Fund Act (hereinafter referred to as 'EPF Act'). The order has been passed under Section 7A of the EPF Act. The petitioner claims that the EPF amount has been wrongly determined and the first respondent has not taken into consideration the fact that the remuneration payable to partners cannot be quantified as salary payable to the employees of the petitioner. Apart from challenging the determination order passed under Section 7A of the EPF Act, the petitioner has also challenged the consequential order of attachment which is dated 14.12.2022.

2. Admittedly, the petitioner has not preferred any statutory appeal as against the determination order passed under Section 7A of



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the EPF Act. However, the petitioner has approached this Court by filing this writ petition in view of the fact that the consequential order of attachment has been passed on 14.12.2022.

3. Necessarily, the petitioner will have to approach Central Industrial Tribunal, if aggrieved by the impugned orders dated 26.07.2022, 01.12.2022 and 14.12.2022. But however in the interregnum, the petitioner's interest will have to be protected as the bank account has been frozen by virtue of the impugned attachment order dated 14.12.2022.

4. This Court is of the considered view that a period of four weeks will suffice for the petitioner to approach the appellate authority, if aggrieved by the impugned orders. However, till such time, the order dated 14.12.2022 is hereby quashed to enable the petitioner to approach the appellate authority as against the impugned orders dated 26.07.2022 and 01.12.2022 before the Appellate Authority within a period of four weeks from the date of receipt of a copy of this order. If the statutory appeal is not filed by the petitioner within a period of four weeks as stipulated above, the respondents are at liberty to enforce the determination order dated 26.07.2022 passed



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under Section 7A of the EPF Act in accordance with law against the petitioner.

5. With the aforesaid direction, the writ petition is disposed of. No costs. Connected miscellaneous petitions stand closed.

04.01.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm

To

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ABDUL QUDDHOSE,J.

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