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W.P.No.5022 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2023

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

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Resurgent Power Projects Limited,
Fifth Floor, Pantheon Plaza,
Old No.484/485 New.No.28-30,
Pantheon Road,
Egmore, Chennai - 600 008,
Rep by its Chief Financial Officer.

... Petitioner

Vs.

1.The Regional Provident Fund Commissioner-II (C&R),
Employees Provident Fund Organisation,
Bhavishya Nidhi Bhawan,
37 Royapettah High Road,
Chennai - 600 014.

2.The Recovery Officer,
Employees Provident Fund Organisation,
Bhavishya Nidhi Bhawan,
37 Royapettah High Road,
Chennai - 600 014.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to permit the petitioner to remit the sum of Rs.7,25,721/- being damages



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amount demanded in terms of its proceedings No.TN/CHN-1/(49217)/D-528/PDC/2019 dated 11.11.2019 passed under Section 14B of the Act, 1952 in 10 equated monthly installments and further direct the 1st respondent to revoke the order of attachment dated 05.02.2021 in proceedings No.CHN/TN/49217/28/8F/RECOVERY/REGIONAL/2021 issued to its bankers namely ICICI Bank Limited, Chennai Branch, No.1, Cenotaph Road, Anna Salai, Teynampet, Chennai-18 – Bank Account No:000105024805 - Current Account - MICR Code: 600229002.

For Petitioner : Mr.Anand Gopalan
for M/s.T.S.Gopalan and Co Advocates

For Respondents : Mr.K.Ramu

ORDER

The order passed under Section 14B of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (EPF Act), dated 11.11.2019 passed by the first respondent, as well as the consequential order of attachment passed by the first respondent herein, dated 05.02.2021, are put under challenge in the present Writ Petition.

2. The learned counsel for the petitioner submitted that the petitioner is not disputing the damages and that since the



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petitioner/company was incurring continuous losses and the business has come to a standstill, they made an earnest request that they may be given sometime to pay the demand amount. The learned counsel further submitted that they have already paid contributions and the interest amount, as demanded by the Authority.

3. Per contra, the learned standing counsel for the respondents submitted that the contributions were due from the year 2000 onwards and the damages are in accordance with the Provisions of the Act and therefore, there is no infirmity in the action of the first respondent, attaching the bank account of the petitioner.

4. This Court has taken into consideration that the corporate creditor has filed an Insolvency Petition before the NCLT and ultimately, even though the company had come out of the NCLT proceedings, it is incurring huge losses. Since the petitioner had not disputed the PF dues and by taking into account the financial status of the Company, this Court is of the view that they may be granted liberty to remit the damages in ten (10) equal monthly installments.



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5. In the light of the above observations, the petitioner is directed to pay a sum of Rs.7,25,721/-, as demanded under the order of the second respondent herein, passed under Section 14B dated 11.11.2019 in ten (10) equal installments, commencing from the month of March, 2023. The petitioner shall pay this monthly installments on or before the 5th day of every month.

6. Since the amount which is now sought to be paid is claimed to be lying in the bank deposit and that the petitioner has to operate the account for the purpose of running his business, the order dated 05.02.2021 passed under Section 8(F) of the EPF Act is set aside. It is made clear that in case the petitioner/Company defaults any one of the EMIs, the respondent is at liberty to re-attach the petitioner's savings bank account without any further notice.

7. With the above directions, the Writ Petition stands disposed of.

No costs.

23.02.2023

Speaking/Non-speaking Order

Neutral Citation: Yes/No

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M.S.RAMESH, J.

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