



W.P.No.14163 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14163 of 2023

and

W.M.P.Nos.13761 and 19045 of 2023

D.P.Foam Pvt. Ltd.,
Represented by its Managing Director,
D.P.Vasudevan,
A-24-26 & 37-40,
PIPDIC Industrial Estate,
Sedarapet,
Puducherry – 605 111.

... Petitioner

Vs.

The Regional Provident Fund Commissioner – II,
Employees' Provident Fund Organisation,
Regional Office,
No.101,100 ft Road, Cholan Nagar,
Olandai Keerapalayam,
Puducherry – 605 004.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records relating to No.TN/RO/PDY/PC/316/COMP/DIV-II/8FOrder/2023 dated 10.03.2023 on the file of the respondent and quash the same as illegal.



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For Petitioner : Mr.S.Subramanian
For Respondent : Mr.P.K.Panneerselvan

ORDER

This writ petition has been filed seeking for issuance of a writ of Certiorari to quash the order in No.TN/RO/PDY/PC/316/COMP/DIV-II/8FOrder/2023 dated 10.03.2023 passed by the respondent.

2. It is the case of the petitioner that the petitioner is an establishment covered under the Employee's Provident Funds and Miscellaneous Provisions Act, 1952 (in short 'the Act'). On account of default towards payment of the Employees' Provident Fund Contributions and allied dues to the tune of Rs.16,55,314/- for the period from March 2020 to March 2022, the respondent passed the impugned order dated 10.03.2023 u/s.8F of the Act, denying the benefits which was granted by the Government under the Pradan Mantri Garib Kalyan Yojana and directed the petitioner to pay the aforesaid amount to the credit of Regional Provident Fund Commission, Puducherry 605 004. Challenging the same the present writ petition has been filed.



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3. The learned counsel for the petitioner submits that on an earlier occasion, this Court vide order dated 05.06.2023, granted an order of interim stay on condition that the petitioner shall deposit a sum of Rs.6,00,000/- to the respondent organization on or before 30.06.2023, pursuant to which, the petitioner deposited only a sum of Rs.1,00,000/- and sought further accommodation to settle the remaining due payable to the respondent organization and this Court vide order dated 11.07.2023 directed the petitioner to deposit the remaining amount on or before 11.08.2023 (today). However, today when the matter is taken up for hearing, learned counsel for the petitioner submitted that this Court may grant further accommodation to settle the remaining due payable by the petitioner.

4. The learned counsel appearing for the respondent submits that as against the impugned order dated 10.03.2023 passed by the respondent, there is an appeal remedy available u/s7 I of the Act. However, without availing such remedy filing the present writ petition is not sustainable.



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Accordingly, he prayed to dismiss the writ petition.

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5. Admittedly, the respondent passed an order dated 09.01.2023 u/s.7A of the Act to remit the PF dues of Rs.16,55,314/- payable by the petitioner management. Subsequently, a consequential order dated 10.03.2023, was passed by the respondent u/s.8F of the Act stating that the petitioner is in default towards payment of PF (Provident Fund) dues under Section 7A of the Act to the extent of Rs.16,55,314/- and also directed the petitioner to remit the said due to the respondent. The impugned order also says that in the event of non-compliance of the requirements of the said order, appropriate action will be taken by the respondent to recover the said amount in the manner known to law, which is under challenge in the above writ petition.

6. Though the facts stand as such, it is pointed out by the learned counsel appearing for the respondent that as against the impugned order passed by the respondent, there is an appeal remedy available before the



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appellate authority u/s 7 I of the Act, without availing such remedy filing the present writ petition is not sustainable. Hence, this Court is not inclined to pass any affirmative direction in favour of the petitioner. However, liberty is granted to the petitioner to prefer an appeal against the impugned order passed by the respondent before the appellate authority in the manner known to law. The petitioner is permitted to pay the balance of the demand amount less the amount already paid in 12 equal monthly installments, the first of which shall start from 05.09.2023 and the remaining shall be paid on or before 5th day of every English calendar month. It is open to the respondent to recover the PF dues, if any, payable by the petitioner further to the order dated 10.03.2023, excluding the amount to be paid by the petitioner in installments, subject to the outcome of the appeal to be filed by the petitioner and it is made clear that the said recovery, shall be made by the respondent only if the petitioner has not preferred any appeal against the impugned order passed by the respondent.



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7. With the above directions and observation, this writ petition is dismissed.

11.08.2023

(rap)

NCC: Yes / No

Index : Yes / No

Speaking Order : Yes / No

Office to Note : Issue order copy on or before 21.08.2023

To

The Regional Provident Fund Commissioner – II,
Employees' Provident Fund Organisation,
Regional Office,
No.101,100 ft Road, Cholan Nagar,
Olandai Keerapalayam,
Puducherry – 605 004.



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M.DHANDAPANI,J.

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