



W.P.No.19181 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.19181 of 2023

M/s.GOMS Electricals Pvt Ltd
Rep. By Its Director E.Goms
43 First Main Road
R.k. Nagar, Mandaveli, Chennai-04.

.... Petitioner

-Vs-

- 1 The Assistant Provident Fund Commissioner
Employees Provident Fund Organization
37 Royapettah High Road
Chennai-14.
- 2 The Recovery Officer
The Recovery Officer Employees Provident
Fund Organization 37 Royapettah High Road
Chennai-14.
3. The Registrar
Central Government Industrial Tribunal-cum-
Labour Court and Employees Provident Fund
Appellate Tribunal, Chennai.

(R3 suo-motu impleaded by order of the Court
dated 30.06.2023 by VLNJ)

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st respondent to give opportunity to produce additional document during the hearing within the stipulated period in accordance with the provisions of law to the petitioner.



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For Petitioner : Mr.G.Babu Rajendran
For Respondents : Mr.R.Vishnu

ORDER

The writ petitioner has sought for a writ of Mandamus directing the 1st respondent to give him opportunity to deal with the case on merits. However, the proper and necessary party to this writ petition is the Central Government Industrial Tribunal-cum-Labour-Court and EPF Appellate Tribunal, Chennai. The said Tribunal has not been made a party to this writ petition. Therefore, the Registrar, Central Government Industrial Tribunal-cum-Labour Court and Employees Provident Fund Appellate Tribunal, is suo-motu impleaded as a party to this writ petition.

2. The facts leading to the issue are, the respondents herein had made a demand for Rs.1,19,65,880/- under Section 7A of the Employees Provident Fund Act. Aggrieved over the order, the petitioner had filed an appeal to the Central Government Industrial Tribunal (CGIT)-cum-Labour Court and Employees Provident Fund Appellate Tribunal at Chennai. As per Section 7-O of the Act, an appeal is not entertainable by the CGIT, unless and until 75% of the amount or such figure as may be determined by the Tribunal, is deposited. The Tribunal had determined an amount of Rs.47,86,352/- to be deposited as conditional pre-



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deposit. Of the Rs.47,86,352/-, the petitioner has deposited only Rs.23,23,927/- leaving a balance of Rs.24,23,927/-. The calculation given in the order does not add up.

3. However, it is not in dispute that the interim direction that had been granted by the Tribunal, to entertain the appeal, had not yet been complied in full. Therefore, the appellate Tribunal dismissed the appeal for non-compliance of mandatory provision of Section 7-O on 08.05.2023. After the dismissal of the appeal, it transpires that the respondents 1 and 2 had wanted to execute their original order constraining the petitioner to file this writ petition.

4. Mr.R.Vishnu, learned counsel for the respondents strenuously objected stating that the petitioner is dragging on the matter and is not interested in remitting the amount. I am not in a position to accept his argument because nearly 50% of the payments have been made, I feel the interest of both sides will be served if the writ petitioner is directed to pay the remaining amount and be permitted to challenge the order on merits.

5. Though the prayer seeks for a Mandamus as stated above, in exercise of the powers vested in me, I mould it for a writ of Certiorarified Mandamus as if the writ petition challenges the order dated 08.05.2023 in EPFA 110 of 2021.



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6. Learned counsel for the petitioner states that even exempted items have been included in the overall calculation of Rs.1,19,65,880/-. Whether this amount represents the actual liability or even exempted items have been included in the liability is a matter which is to be decided by the appellate tribunal. Having chosen to file an appeal and having obtained a beneficial order, it is the duty of the petitioner to comply with the same. Therefore, the following directions are issued:

- (a) The petitioner shall pay the remaining amount of Rs.24,23,927/- on or before 03.10.2023.
- (b) In case the amount is paid by 03.10.2023, the Tribunal shall take up the appeal on merits and dispose it off.
- (c) The petitioner shall be entitled to agitate all the issues including the fact that exempted items have been included at the time of calculation.
- (d) In case the petitioner does not pay the amount within 03.10.2023, the direction as granted in clause (a) shall stand vacated without any further notice to either parties.



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WEB COPY (e) Status quo as on today shall be maintained till 03.10.2023.

7. With the above directions, this writ petition is partly allowed. No costs.

30.06.2023

Index : Yes/No

Neutral Citation : Yes/No

Speaking Order / Non-speaking order

KST

To

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V. LAKSHMINARAYANAN, J.

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