



WEB COPY



W.P.No.23324 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.23324 of 2023
and
WMP.No.22864 of 2023

M/s.Pondicherry Oxy-Acetylene Private Limited.,
Represented by its Managing Director,
R.S.No.97/7, Pondy-Villupuram Road,
Thirubuvanai, Puducherry – 605 107.

...Petitioner

Vs.

Employees Provident Fund Organization,
Regional Office, No.101, 11 Ft Road,
Sree Venni Commercial Complex,
Cholan Nagar, Olandaikerapalayam,
Puducherry – 605 004.

...Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for records and quashing the order dated 12.05.2023 bearing No.TN/RO/PDY/496/PDC/INTEREST/7Q/2023 passed by the respondent.

For Petitioner : Mr.M.Nirmalkumar

For Respondents : Mr.P.K.Panner Selvam



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ORDER

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2. Mr.P.K.Panner Selvam, learned counsel takes notice for the respondent. In view of the consent expressed by the learned counsel on either side, this petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that the petitioner company is a private limited company registered under the Companies Act, 1956 and is engaged in the manufacture and supply of Medical Oxygen Gas and it is also covered under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (in short 'the said Act'). While so, vide summon dated 17.03.2021, the respondent informed the petitioner company that, there is a delay of remittance of dues, on the part of the petitioner company, for the period from 13.10.2016 to 31.03.2020 and the corresponding amount of interest on such belated payments was Rs.8,43,181/-. Upon receipt of the said summon, though, the petitioner company appeared before the respondent and



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submitted several documents to show that the interest calculated under Section 7Q of the said Act is not correct, the respondent, without considering any of the said facts, passed the present impugned order dated 12.05.2023, levying an interest of Rs.8,06,686/- under Section 7Q of the said Act. Challenging the same, the petitioner has come up with this Writ petition.

4. Learned counsel for the petitioner submitted that the respondent had erroneously calculated the interest exclusively even with respect to the payments that were duly made much earlier than the stipulated date and the petitioners had also submitted the relevant documents in support of the same. While so, without considering any of the above said documents, the respondent had mechanically made the present demand under Section 7Q of the said Act, which is wholly unsustainable. Hence, he prayed for appropriate orders.

5. Learned counsel for the respondent submitted that, the present impugned demand under Section 7Q of the Act was passed by the authority after conducting appropriate adjudication, while so, the same cannot be



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adjudicated afresh by this Court. Further, if there is any, discrepancy in the calculation, this Court may remand the matter back to the authority for fresh consideration. Hence, he prayed for dismissal of this Writ petition.

6. Heard learned counsel on either side and perused the materials available on record.

7. Though very many grounds have been raised, the major grievance of the petitioner company is that, there is an error in the calculation arrived at by the respondent while making demand under Section 7Q of the Employees Provident Fund and Miscellaneous Provisions Act, 1952.

8. In view of the stand taken by the respondent, this Court, without interfering with the impugned demand, directs the petitioner company to make a fresh representation before the respondent, pointing out the discrepancies in the impugned demand within a period of four weeks from the date of receipt of a copy of this order. Upon receipt of such representation, if there is any such discrepancies in the impugned demand, the respondent shall rectify the same and pass appropriate orders, after



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affording an opportunity of personal hearing to the petitioner. Further, if any excess amount is collected from the petitioner company, the same may be refunded to the petitioner and the respondent is directed complete the above said exercise within a period of six weeks thereafter.

9. Accordingly, this Writ Petition stands disposed of with the aforesaid directions. No costs. Consequently, connected Miscellaneous petition is closed.

09.08.2023

skt

NCC : Yes / No
Speaking Order : Yes / No
Index : Yes / No

To

Employees Provident Fund Organization,
Regional Office, No.101, 11 Ft Road,
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M.DHANDAPANI., J.

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