IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.25527 of 2023
and W.M.P. No.24916 & 24917 of 2023

Life Style International Private Ltd.,
Rep. by its authorized representative S.Senthil,
77, Town Centre, Building No.3, West Wing,
Off Old Airport Road, Yemalur PO,
Bangalore-560 037.

Having local address

Express Avenue Mall,
Life Style International Pvt. Ltd.,
A002, A102, A201 A, GF FF,SF,
Anna Salai, Chennai-14. .... Petitioner

-vs-

1. The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
37, Royapettah High Road, Chennai-14.

2. The Branch Manager,
HDFC Bank, Richmond Road,
Bangalore-560 025.

3. The Registrar,
CGIT cum Labour Court,
First Floor, B Wing,
26, Haddows Road,
Shastri Bhawan, Chennai-600 0006. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Calling for records relating to the impugned attachment order passed by 1st Respondent dated 12.07.2023 under section 8F of the Employees provident fund and misc. Provision act 1952 and consequential impugned order dated 16.08.2023 passed in MP. No 01 / 2023 in EPFA 533 / 2017 on the file of CGIT Chennai and quash the same as illegal and consequentially direct the Learned PO CGIT Chennai to rehear the application in MP No 01 / 2023 in EPFA No. 533 / 2017 on the file of CGIT chennai for restoration of the appeal in EPFA No 533 / 2017 on the file of CGIT Chennai and decide the same in accordance with law.

For Petitioner	:	Mr.M.Venkadesan
For Respondent(s)	:	Mr.T.Vishnu R1

ORDER

This petition has been filed seeking to quash the impugned attachment order passed by 1st Respondent dated 12.07.2023 under section 8F of the Employees Provident Fund and Misc. Provision Act 1952 and consequently, quash the impugned order dated 16.08.2023 passed in MP. No 01 / 2023 in EPFA 533 / 2017 on the file of CGIT Chennai and consequently direct the Learned PO CGIT Chennai to rehear the application in MP No. 01 / 2023 in EPFA No. 533 / 2017 on the file of CGIT Chennai for restoration of the appeal in EPFA No 533 / 2017 on the file of CGIT, Chennai and decide the same in accordance with law.

2. It is the case of the petitioner that the petitioner company is covered under the Employees Provident Funds & Misc. Provisions Act, 1952 (hereinafter referred to as the Act) and the Employees' Provident Fund Scheme, 1952 (hereinafter referred to as "the Scheme"). The petitioner has been remitting the PF contribution of their eligible employees regularly on basic wages as defined under the Act and the Scheme. Without having any specific complaint from the employee, the Enforcement Officer has been inspected the petitioner establishment on 02.09.2014. The aforesaid EO has made the inspection report dated 04.09.2014, the same was communicated by the first respondent organization on 15.10.2014. In the said report, the EO has stated that the provisional dues of Rs.1,07,97,859/- which was payable by the petitioner for the period from 04.2011 to 04.2014. The first respondent without examining the contentions of the petitioner in a proper perspective, passed an order on 18.12.2014 under Section 7A of the Act. Aggrieved by the said order dated, the petitioner filed an appeal under Section 7-I of the Act, before the Employees Provident Fund Appellate Tribunal, Delhi on 06.01.2015. The said appeal was transferred to CGIT, Chennai. Without issuing notice to the petitioner, the CGIT dismissed the appeal for default on 12.07.2023. Challenging the said order, the present writ petition has been filed.

3. The learned counsel for the petitioner submitted that the first respondent has passed the impugned order under Section 8F of the Act, 1952 sent it to the petitioners banker at Bangalore wherein there is no reference about the final order dated 16.08.2022 passed in EPFA.No.533/2017/ATA 33(13)/2015 on the file of the CGIT, Chennai. Even the amount mentioned in the said appeal and amount mentioned in the said impugned recovery order not tallying. Even the first respondent has not applied its mind while issuing said recovery order. It clearly shows that the order has been issued mechanically and without non application of mind. It is bad in law and as such is not sustainable. In order to show bonafide, the petitioner is ready to deposit 50% of the amount before the CGIT within the stipulated time as fixed by this Court.

4. The learned counsel for the respondent vehemently contended that the original authority passed the order under Section 7(a) of the Act in the year 2014. Till date, the petitioner is dragging the matter. The petitioner filed an appeal before the EPFAT, Delhi and the same was transferred to CGIT, Chennai. Even then, the petitioner has not vigilant to conclude the appeal and failed to appear before the CGIT and has not cooperate with the matter. Hence, the said appeal was dismissed for default. After dismissal of the said appeal, the petitioner has file the present appeal, which cannot interfere with.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

6. The facts of the case are not in dispute. Admittedly the original authority passed an order under Section 7A of the Act on 18.12.2014 and the original authority has assessed the provisional dues of Rs.1,07,97,859.00. Against which, the petitioner preferred appeal before the Appellate Tribunal. Since the Presiding Officer has not available at the relevant point of time. Therefore, the petitioner filed a writ petition before the Delhi High Court. The Delhi High Court passed an order in favour of the petitioner. Thereafter, the appeal filed by the petitioner was transferred to CGIT, Chennai. Due to non appearance of the petitioner, the CGIT dismissed the appeal for non prosecution.

7. Considering the fact that the CGIT/3rd respondent, without giving opportunity to the petitioner, dismissed the appeal and the petitioner himself has come forward to pay 50% of the provisional dues as assessed by the Tribunal, dated 18.12.2014, this Court is inclined to remand the matter to the CGIT/3rd respondent. The petitioner is directed to deposit 50% of the provisional dues before the Tribunal within a period of four weeks from the

date of receipt of a copy of this order. Upon confirming deposit of the aforesaid amount, the CGIT shall take up the case and consider the same and pass appropriate orders after hearing the petitioner within a period of six weeks, thereafter, on merits and in accordance with law.

8. With the above directions, the writ petition is disposed of. Consequently, the connected Miscellaneous Petition are closed. No costs.

30.08.2023

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Index: Yes/No
NCS : Yes/No

To

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M.DHANDAPANI, J.

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