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W.P.No.27431 of 2021
and W.M.P.No.28949 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.27431 of 2021
and W.M.P.No.28949 of 2021

M.Mubarak Basha
The Managing Director
M/s.Vivid Infotech Software Solutions (P) Ltd.,
No.19, 2nd Street, Suresh Nagar, Valasarawakkam,
Chennai - 87. ... Petitioner

Vs.

Employees Provident Fund Organisation,
Ministry of Labour and Employment,
Regional Office, 37,
Royapettah High Road,
Chennai - 14. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to consider the petitioner's representation dated 04.10.2021 and consequently, permit the petitioner to pay the balance amount of Rs.50,11,497/- under the monthly instalment scheme.

For Petitioner : Mr.S.Sarath Kumar

For Respondent : Mr.S.M.Deenadayalan,
Standing Counsel



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ORDER

The writ petitioner, M/s.Vivid Infotech Software Solutions Private Limited, Chennai is covered under the Employees' Provident Funds and Miscellaneous Provisions Act 1952 (hereinafter referred to as the 'Act'). They had committed default in remitting provident fund for the period from March 2016 to November 2017 for regular employees in accordance with the provisions of the Act. An inspection was conducted by the respondent and they found that the petitioner had failed to remit provident fund to the tune of Rs.62,05,758/- for the period from March 2016 to November 2017. Thereafter, an enquiry under Section 7A of the Act was conducted wherein one Karthikeyan, the authorized representative of the writ petitioner appeared before the respondent. Thereafter, the respondent quantified the amount payable by the writ petitioner as detailed hereunder :

<i>PARTICULARS</i>	<i>Dues assessed</i>	<i>Remitted</i>	<i>Balance</i>
Employees P.F. Contributions A/c.No.01 EMPLOYEE	3485387	260769	3224618
Employees P.F. Contributions A/c.No.01 EMPLOYER	1356985	0	1356985
Employees P.F. Administrative charges A/c.No.02	225245	0	225245
Employees Pension Fund Contributions A/c.No.10	2128402	0	2128402
Employees Deposit Linked	145627	0	145627



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<i>PARTICULARS</i>	<i>Dues assessed</i>	<i>Remitted</i>	<i>Balance</i>
Insurance Fund Contributions A/c.21			
Employees Deposit Linked Insurance Fund Administration Charges A/c.No.22	2588	0	2588
Total	7344234	260769	7083465

Since this amount was not paid by the writ petitioner the respondent passed an order of attachment attaching the property of the writ petitioner situate in S.No.147/3 of Valasarawakkam Village, Ambattur Taluk, Tiruvallur District measuring 2778 sq.ft. vide in Ref.No.TN/CHN South/84826/Recovery/Div 21/Regl/2021 dated 23.02.2021. Apart from that the Bank Accounts of the writ petitioner were also frozen and the respondent sent various communications to the Branch Manager, Axis Bank, Deutsche Bank, RBL Bank to send the amount to their credit under Section 8F of the Act.

2. Mr.S.Sarath Kumar, learned counsel for the writ petitioner would contend that since the petitioner is facing severe financial crisis they are not able to pay the amount as quantified by the respondent and therefore, prayed for payment of the same in eight equal monthly instalments.



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3. Per contra, Mr.S.M.Deenadayalan, learned Standing Counsel for the respondent would contend that the writ petitioner had not paid any amount for the subsequent period also i.e. from 2017 to 2023 and that they are chronic defaulters in payment of provident fund amount. He would also contend that the writ petitioner had neither pleaded nor proved that they are facing financial crisis.

4. At the outset it may be observed that the petitioner in his affidavit has stated that due to Covid - 19 Pandemic situation and consequent lockdown the petitioner was unable to run his company and therefore, could not pay amount from the period March 2016 to November 2017. Breakdown of Covid -19 and consequent lockdown were during the year 2020 and this plea cannot be taken into consideration. Moreover, the petitioner has not also made any payment to show his bonafide. The contention of the counsel for the respondent that the petitioner did not remit any amount from the year 2017 till date is not refuted by the writ petitioner. In the circumstances, I do not see any reason to show any leniency to the present writ petitioner.



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5. Accordingly, this Writ Petition is dismissed. No costs.

Consequently, the connected Writ Miscellaneous Petition is closed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

To

Employees Provident Fund Organisation,
Ministry of Labour and Employment,
Regional Office, 37,
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R. HEMALATHA, J.
mtl

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