



W.P.No.29633 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

CORAM

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

W.P.No.29633 of 2023 and
W.M.P.No.29249 of 2023

M/s.DSR Sons India Engineers Pvt. Ltd.,
Represented by its Director,
Mr.D S Raveekumar,
No. 49, HIG, NH-1, Vallal MGR Street,
Maraimalai Nagar-603 209.

... Petitioner

Vs.

1 The Regional Provident Fund Commissioner-II,
Employees Provident Fund Organisation,
Regional Office, Tambaram,
No.3, Rajaji Salai,
Chennai - 600 045.

2 The Recovery Officer,
Employees Provident Fund Organisation,
Regional Office, Tambaram,
No.3, Rajaji Salai,
Chennai - 600 045.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
seeking issuance of a Writ of Mandamus, directing the respondents to
permit the petitioner to pay the balance interest amount of Rs.4169870/-



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determined through the 1st Respondent Order No. TB/RO/TAM/1602808/PDC/526/2023, dated 10.02.2023 (Diary No. 324/2022) for Rs. 61,18,793/- passed u/s 7Q of the EPF and MP Act, 1952 in twenty four equal monthly instalments.

For Petitioner : Mr.K.Vasuvenkat

For Respondents : Mr.R.Thirunavukarasu,
Standing Counsel

ORDER

The petitioner establishment is registered under the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 and they are engaged in civil works. They also undertake Government Road projects for various State Government Agencies such as Highways Department, DRDA , Maraimalai Nagar Municipality and Corporation, Chennai. The grievance of the Writ Petitioner is that the 1st respondent had initiated proceedings under Section 7A of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (hereinafter referred as the Act) and had claimed contribution based on the balance sheet figures without identifying the beneficiaries and subsequently, passed an order under Section 14B of the Act, directing the petitioner establishment to remit a



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sum of Rs.71,32,328/- by way of penal damages under Section 14 B of the Act for the period from April 2008 to July 2022. The 1st respondent also passed an order under Section 7Q of the Act, in TB/RO/TAM/1602808/ PDC/526/2023, dated 10.02.2023 (Diary No.324/2022) for claiming interest for the period from April 2008 to July 2022. Challenging the levy of damages, an appeal has been preferred by the petitioner under Section 7 I of the Act and the same has been admitted in EPFA No.64/2023. However, the present Writ Petition is filed permitting them to pay the balance amount in 24 installments.

2. Heard Mr.K.Vasuvenkat, learned counsel for the petitioner and Mr.R.Thirunavukarasu, learned standing counsel for the respondents.

3. The learned counsel for the Writ Petitioner contended that the Provident Fund Appellate Tribunal authorities had passed an order of stay as far as the levy of damages is concerned with a condition to deposit a sum of Rs.15,00,000/- towards damages. His further contention is that the petitioner establishment is not able to pay the said amount as



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they had sustained loss due to Covid 19 Pandemic situation. He therefore, prayed for payment of the balance of amount of Rs.45,29,916/- in 24 equal monthly instalments.

4. Mr.R.Thirunavukarasu, learned Standing Counsel who accepts notice for the respondents contended that the orders under Section 7Q of the Act were passed as early as on 10.02.2023 and the orders under Section 7 A of the Act was passed even in the year 02.03.2021 and the Writ Petitioner paid only the contribution and did not pay the damages for the delayed payment.

5. The main contention of the Writ petitioner is that the petitioner establishment sustained loss due to Covid 19 Pandemic. In the circumstances, the Writ Petitioner is directed to pay the balance amount of Rs.45,29,916/-(Rupees Forty Five Lakhs Twenty Nine Thousand Nine Hundred and Sixteen only) in 17 equal monthly installments commencing from November 2023.



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6. It is made clear that if there is any default in payment of installments, the 1st respondent can enforce the orders passed under 7 Q of the Act.

7. With the above observation, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking/Non-Speaking order
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R. HEMALATHA, J.

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To

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