



W.P.(MD)No.16000 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.16000 of 2012

and

M.P.(MD)No.1 of 2012

The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional office,
No.1, Lady Doak College Road,
Chokkikulam,
Madurai – 625 002.

... Petitioner

versus

1. The Presiding Officer,
Employee's Provident Appellate Tribunal,
Scope Minar, Core II 4th Floor,
New Delhi.

2. M/s.Vidyasagar Textiles,
Vedasandur,
Dindigul District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,



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seeking for the issuance of Writ of Certiorari, to call for the records relating to the order dated 24.09.2009 made in ATA No.521 (13) 2009 on the file of the first respondent and quash the same.

For Petitioner : Mr.R.Ravikumar

For Respondents : No appearance

ORDER

This writ petition is filed by the Regional Provident Fund Commissioner, Madurai, as against the order passed by the Presiding Officer, Employee's Provident Appellate Tribunal, New Delhi, in ATA No.521/(13) 2009 dated 24.09.2009.

2. The second respondent, namely, M/s.Vidyasagar Textiles, Dindigul District, an establishment, covered under the provisions of Employees Provident Fund Act, 1952, made remittance of Provident Fund contribution including the employee's share of Provident Fund Contribution, deducted from their wages for the period from October



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2001 to December 2003 and April 2004 to May 2006 belatedly. For such belated remittance, notice was issued to the second respondent under Section 14-B of Employee's Provident Fund and Miscellaneous Provisions Act, 1952 on 05.12.2006. Enquiry was conducted and an order was also passed levying a sum of Rs.21,58,132/- as penal damage on the second respondent and the same was challenged by the second respondent before the first respondent in ATA No.521/(13) 2009. The Tribunal, by its order dated 24.09.2009 allowed the appeal, restricting the damages upto 5% per annum on arrears of contribution. Aggrieved over the same, this writ petition was filed in the year 2012.

3. This Court, while entertaining this writ petition, ordered notice on 12.12.2012. However, notice sent to the second respondent was returned with an endorsement "Company closed for the past one year". Thereafter, the petitioner has not taken any steps to find out the availability of the second respondent. This Court, on 07.11.2022 ordered further notice to the second respondent and also permitted the



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petitioner to take private notice. The petitioner has also attempted to serve notice to the second respondent. However, it was returned with an endorsement that “Company was already closed”.

4. This writ petition is pending from the year 2012. Though this Court has provided sufficient opportunity to the petitioner to find out the availability of the second respondent, the learned counsel for the petitioner has expressed his difficulty in finding out the availability of the second respondent and therefore, he submits that this writ petition may be closed at this stage by giving liberty to the petitioner to file a fresh writ petition, after ascertaining the availability of the second respondent.

5. Considering the fact that summons have not been served on the second respondent for the past 10 years and even now, the petitioner could not identify the availability of the second respondent, this writ petition is closed with liberty to the petitioner to file a fresh



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writ petition as when the petitioner has found out the availability of the second respondent. No costs. Consequently, connected miscellaneous petition is closed.

15.03.2023

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NCC : Yes / No.
Index : Yes / No.
Internet: Yes / No.

To

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B.PUGALENDHI, J.

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