



W.P.(MD).No.16911 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.16911 of 2023

and

W.M.P(MD)No.14142 of 2023

M/s.First Choice Outsourcing Services,
Represented by its Managing Partner,
P.Selva Kumar,
No.53, Water Tank Buildings, Ground Floor,
Periyar Nagar, Trichy-620 005.

... Petitioner

Vs.

Regional Provident Fund Commissioner - II,
Employees' Provident Fund Organization,
Regional Office, P.B.No.588, Sree Complex,
No.18, Madurai Road,
Trichy-620 008.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for records of order Ref. No.CB/TRY/82562/7Q/513/2023, dated 26.04.2023 passed by the respondent and directing the respondent to accept the remaining outstanding determined amount of Rs.8,89,433/- (Rupees Eight Lakhs Eighty Nine Thousand Four Hundred and Thirty Three only) in 24 equal monthly installments.



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For Petitioner : Mr.P.Thangaraju

For Respondent : Mr.N.Dilip Kumar
Standing Counsel

ORDER

The present writ petition is for a Writ of Certiorarified Mandamus, calling for records of order Ref. No.CB/TRY/82562/7Q/513/2023, dated 26.04.2023 passed by the respondent and directing the respondent to accept the remaining outstanding determined amount of Rs.8,89,433/- (Rupees Eight Lakhs Eighty Nine Thousand Four Hundred and Thirty Three only) in 24 equal monthly installments.

2. Heard the learned Counsel for the petitioner and the learned Standing Counsel for the respondent and carefully perused the materials available on record.

3. The petitioner Firm engaged in the service of providing security personnel to guard various establishments, shops and offices across Tamil Nadu and it is covered under the Employees Provident Fund & Miscellaneous



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Provisions Act, 1952. The respondent initiated enquiry under Section 7Q of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 to assess the interest amount on late payment of the provident fund dues for the period between August, 2016 to February, 2022. According to the enquiry, the respondent determined an amount of Rs.8,89,433/- as outstanding interest amount for the delayed provident fund payments for the above said period vide order, dated 26.04.2023. Since the petitioner was not able to pay the entire amount, immediately the petitioner approached the respondent by a letter, dated 22.05.2023 seeking permission to pay the outstanding balance in 24 equal monthly installments. Since the petitioner's request was not heeded by the respondent, the petitioner has filed this writ petition.

4. Per contra, the learned Standing Counsel for the respondent vehemently submitted that the petitioner was not amenable to the conditions whatever was mandated by the respondent for the purpose of permitting the petitioner to remit the outstanding balance in installments. To be more particular, the respondent vide communication, dated 07.07.2023 had intimated the petitioner to comply with the conditions. Failing which, the respondent cannot permit the petitioner to make payment of the outstanding dues in



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installments. Only because the petitioner did not agree to the aforesaid conditions, the respondent Organisation refused to accept the petitioner's proposal of making payment in installments and insisted for the petitioner to comply with the conditions for the purpose of availing payment in installments.

5. Therefore, this Court is of the considered view that the petitioner, who is already under financial constraint with much difficulty has come forward to settle the entire outstanding dues in 24 equal monthly installments.

6. In view of the above said discussions, this Court passes the following order:

(i) The respondent Organisation should permit the petitioner to make the payment in installments. Hence, this Court permits the petitioner to settle the entire outstanding balance of Rs.8,89,433/- in 24 equal monthly installments to be payable on 15th day of every month in English calendar (i.e.,) the period from 15.09.2023 to 15.10.2025.

(ii) The current contributions and the employers share to be paid regularly by 15th day of each month in addition to this installments.



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(iii) The contribution in respect of the outgoing / deceased member / retired employees shall be paid in one lump sum in the following month itself in addition to the amount of dues and monthly installments.

(iv) This Court makes it clear that the petitioner will not be exempted from the payments of statutory dues under Sections 14B and 7Q of the EPF and MP Act, 1952 for the particular period.

(v) In case of default of the petitioner to comply with any of the aforesaid condition, the respondent Organisation is at liberty to proceed as against the petitioner in accordance with law.

7. Accordingly, this writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

18.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To
Regional Provident Fund Commissioner - II,
Employees' Provident Fund Organization,
Regional Office, P.B.No.588, Sree Complex,
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L.VICTORIA GOWRI, J.

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