



W.P.(MD)No.11227 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 11227 of 2015

and

M.P(MD)No.2 of 2015

Neycer India Ltd.,
Factory and Administrative Office,
Vadalur - 617 303,
Cuddalore District, Tamil Nadu,
Rep. by its Authorised Manager,
P. Saravanakumar S/o.Paranthaman.

... Petitioner

Vs.

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub Regional Office,
P.B. No. 588, Sree Complex,
D Block, No.18,
Madurai Road,
Tiruchirapalli - 620 008.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings issued by the respondent in his proceedings Nos.TN/SRO-



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TRY/PDC/C-22/3967/14B PROC/2014 dated 19.09.2014 for payment of Rs.13,97,841/- towards damages and also consequential impugned proceedings in RRC No.CBTRY3152/0003967/27/04/2015/521/35 dated 27.04.2015 for appointment of the Recovery Officer, quash the same and consequently direct the respondent to refund the sum of Rs.9,83,981/- which was already paid by the petitioner towards interest.

For Petitioner : No Appearance

For Respondent : Mr.I.Pinaygash

ORDER

This writ petition is filed challenging the impugned order, dated 19.09.2014 and 27.04.2015.

2. The contention of the petitioner is that they have become sick company and was registered with BIFR in Petition No.29 of 1992 and during October 2008 the BIFR has passed rehabilitation package for reconstructing of the assets and liabilities of the company and has also granted certain relief to various statutory authorities including EPFO, wherein the details of relief given with respect to EPFO is as under:



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“To waive damages including penalty for non-payment of outstanding amount of PF dues, within the due dates, to also consider not raising any notice for the period the operation of the company's plants remained suspended”.

4. The Learned Counsel appearing for the respondent submitted that the petition before BIFR was filed in the year 1992. Subsequent development was not placed before the EPF authorities hence the respondents had imposed penalty. It is seen from the records that the respondent has also participated in the BIFR proceedings. Therefore, this Court is confirming the order of the BIFR and consequently, the respondent is restrained from collecting the amount from the petitioner company since the BIFR had waived damages including penalty for non-payment of outstanding amount of PF dues, within the due dates. The BIFR was also directed to consider not to raising any notice for the period the operation of the company's plants remained suspended.



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5. Therefore the impugned order is quashed and consequently the respondents are restrained from collecting the amount as stated supra. Hence the writ petition is allowed. No costs. Connected Miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
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To

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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 11227 of 2015**

26.06.2023