



WEB COPY



W.P.No.9410 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.9410 of 2021
and
W.M.P. No.10002 of 2021

D.Saravanan

...Petitioner

Vs.

1. The Regional Provident Fund Commissioner,
Tamil Nadu and Pondicherry,
No.37, Royapettah High Road,
Chennai – 14.
2. The Recovery Officer,
The Employee Provident Fund Organisation,
No.37, Royapettah High Road,
Chennai – 14.
3. The Enforcement Officer,
The Employee Provident Fund Organisation,
No.37, Royapettah High Road,
Chennai – 14.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records of the proceedings issued by the first respondent in Proceeding No.TN/CHN-1/CC-II (PDC)/TN/85121/D-529/2019 dated 11.06.2019 proceeding No.TN/CHN-1/CC-II(PDC)/TN/85121/D-529/2019 dated 11.06.2019 and second



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respondent proceeding No.TN/CHN-I/CC-II (Recy)/CP1/TN/85121/D-
29/Reg/2020 dated 10.12.2020 quash the same.

For petitioner : Mr.T.Dharani
For respondents : Mr.K.Ramu

ORDER

This writ petition is filed seeking for issuance of writ of certiorari to quash the proceedings issued by the first respondent dated 11.06.2019 and the second respondent dated 10.12.2020.

2. The petitioner was running house keeping man power enterprises which is covered under the Employee Provident Fund and Miscellaneous Provision Act, 1952 (for brevity 'the Act') The petitioner's establishment has been paying the contribution to the respondents every month as per the provisions of Section 6,6 A (2A) and 6 C (2)/6 C of the Act read with para 38 (1) of the EPF scheme 1952, 3 of EPS 1995 and 8 (1) of EDLI scheme, 1976. The petitioner's establishment became sick from the year 2015 to 2016. Though, the contributions were paid until 2015 regularly, thereafter, on



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account of closure of the petitioner's establishment in the year 2016 delay occurred in payment of contribution to the respondents.

3. The first respondent issued proceedings dated 11.06.2019 No.TN/CHN-1/CC-II (PDC)/TN/85121/D-529/2019 under Section 14 B of the Act and directed the petitioner to pay a sum of Rs.10,61,487/- as damages on delay in remittances for the period February 2015 to March 2018. By way of another proceedings dated 11.06.2019 in proceedings No,TN/CHN-1/CC-II(PDC)/TN/85121/D-529/2019 the petitioner was imposed a fine of Rs.5,09,523/- towards interest. It is also mentioned in the said notice that incase if the amount is not paid within 15 days of the receipt of the order, further action would be taken under Section 8 B to 8 G of 'the Act'. It is submitted that on account of facing of financial crunch the demands as demanded by the respondents could not be paid by the petitioner's establishment. It is submitted that though, there was a delay in payment of contribution it was not intentional and was only on account of financial crisis. Therefore, orders under Section 14 B and 7 Q should not have been passed.



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4. During the course of hearing, the learned counsel for the petitioner has fairly submitted that out of the total amount due of Rs.14,71,010/- as per notice of demand to defaulter dated 10.12.2020, an amount of Rs.4,00,000/- has already been paid to the respondents and photo copy of the cheques dated 12.02.2024 has been filed before this Court to show that an amount of Rs.2,00,000/- each totalling to Rs.4,00,000/- has already been paid to the respondents. It is submitted by the learned counsel for the petitioner that in respect of the balance amount, if certain time is granted, the petitioner would pay the balance amount and requested for three to four months time.

5. The learned counsel for the respondents on the other hand submitted that since the petitioner has decided to pay the balance amount and requested to grant some time, the respondents are in agreement to the same.

6. Heard both sides and perused the materials available on record.



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7. Considering the submissions made by both sides and on perusal of the records, this writ petition is disposed of and the petitioner is permitted to pay the balance of amount to the respondents as quickly as possible not later than three months from the date of receipt of a copy of this order, failing which the respondents are at liberty to intimate further action against the petitioner without giving any notices in respect of the balance of the amount.

8. Accordingly, this writ petition is disposed of with the above directions. Connected W.M.P.is closed. No costs.

09.07.2024

vca

Index : Yes/No
Internet : Yes/No
Citation : Yes/No



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Dr.D.NAGARJUN.J.

Vca

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