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W.P.No.9204 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

CORAM:

THE HONOURABLE Dr. JUSTICE D. NAGARJUN

W.P.No.9204 of 2024
and
WMP.Nos.10246 & 10247 of 2024

M/s.Loyal Housing Development Private Limited
Rep.by its Managing Director
J.Umaa Mageshwaran

... Petitioner

Vs.

1.Employee's Provident Fund Organization
Rep.by its Assistant PF Commissioner
Bhavishya Nidhi Bhawan
No.37, Royapettah High Road
Chennai 600 014.

2.Employee's Provident Fund Organization
Rep.by its Assistant PF Commissioner & Recovery Officer
Bhavishya Nidhi Bhawan
No.37, Royapettah High Road
Chennai 600 014.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Certiorari, calling for the records pertaining to the impugned



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order dated 07.10.2021 passed by the first respondent vide his proceedings No.TN/RO/CHN-1/TN/84639/Div.24/Enf/2021-22 directing the petitioner to pay a sum of Rs.60,59,530/- toward arrears of EPF contributions, EPS Contributions, EDLI & Administration charges and quash the same.

For Petitioner : Mr.K.V.Shanmuganathan

For Respondents : Mr.K.Venkatesan
Senior Counsel

ORDER

This Writ Petition is filed challenging the impugned order dated 07.10.2021 in D.No.TN/RO/CHN-1/TN/84639/Div.24/Enf/2021-22 of the first respondent directing the petitioner to pay a sum of Rs.60,59,530/- towards arrears of EPF contributions, and EPS contributions, EDLI & Administration charges for the time being.

2. It is submitted by the learned counsel for the petitioner that he is the Managing Director of the petitioner's company, which was



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registered under the provisions of the Companies Act, 1956, with effect from 14.12.2005. Subsequently, the petitioner Company had registered itself under the provisions of EPF & Misc. Provisions Act 1952 with effect from 01.01.2012. The petitioner has been regularly remitting the employer's as well as employee's contributions. On 13.01.2016 the petitioner was given a notice U/s 7 A of the EPF & Misc. Provisions Act, 1952, alleging that the petitioner had failed to remit contributions for the period from January 2013 to July 2015. The enquiry was conducted and after verifying the records, pending enquiry the petitioner herein, remitted a sum of Rs.24,02,795/- on 21.12.2016 towards arrears of EPF contributions.

3. The first respondent directed the Enforcement Officer to reconcile the salary components mentioned in the balance sheet for the year 2014-2015. The Senior Manager of the petitioner appeared before the first respondent with all required particulars. Then, the first respondent has issued the impugned order proceedings to the petitioner to pay a sum of Rs.60,59,530/-.



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4. The learned counsel for the petitioner submitted that even though the officials of the petitioner's company participated in the proceedings, ultimately on 27.09.2021, the first respondent failed to appear for one hearing and the first respondent proceeded ex parte and passed the impugned order. It is also submitted that the petitioner is expected to pay only Rs.10 lakhs. However, an amount of Rs.60,59,530/- was directed to pay. The learned counsel for the petitioner has further submitted that the impugned order is a non speaking order and on this score alone, the same is required to be interfered with.

5. Mr.K.Venkatesan, learned counsel representing the respondents 1 & 2 submitted that a fair opportunity, which is required under the Act was given, but the petitioner's company failed to produce any material to consider its contention. Thereby impugned proceedings dated 07.10.2021 were passed directing the petitioner's company to pay Rs.60,59,530/-.

6. The learned counsel for the second respondent further submitted that the petitioner has not approached before the Statutory



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Appellate Authority under the Act within the time stipulated and without exhausting the alternative remedy and the petitioner has approached this Court and filed this Writ Petition. Therefore, he sought for this Court to dismiss this Writ Petition.

7. During the course of submission, the learned counsel for the petitioner made a request that in case if the amount demanded in the impugned order is permitted to be paid in instalments, the petitioner would pay the said amount. Further counsel on record submitted to fix number of installments.

8. In view of the above, this Writ Petition is disposed of permitting the petitioner to pay the demanded amount of Rs.60,59,530/- in 8 monthly equal instalments. First instalment shall commence from 01.05.2024 and the rest of the 7 monthly instalments shall be paid on or before first of every month. After making payments of all the instalments, the petitioner is at liberty to submit a representation to the respondents to consider the request of miscalculation of the demanded amount and on filing



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of such representation, the respondents are directed to consider the same and pass appropriate orders within two weeks thereafter, after giving opportunity of hearing to the petitioner. In case if the petitioner fails to pay any of the instalment as observed, the orders passed by this Court stand deemed to have been vacated.

9. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

04.04.2024

Index : Yes / No
Internet : Yes / No
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To

- 1.The Assistant PF Commissioner
Bhavishya Nidhi Bhawan
No.37, Royapettah High Road
Chennai 600 014.
- 2.The Assistant PF Commissioner & Recovery Officer
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