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W.P.No.16801 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

CORAM :

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

W.P.No.16801 of 2024
and
W.M.P.No.18478 of 2024

Akshaya Private Ltd.,
Rep.by its Director,
J.Ravi
No.117/1, L B Road,
7th Floor, Adyar
Chennai – 600 020.

...Petitioner

Vs.

1. The Regional Provident Fund Commissioner – II (PDC),
No.37 Royapetta High Road,
Chennai – 600 014.
2. The Assessing Officer,
RO Chennai (South),
No.37 Royapetta High Road,
Chennai – 600 014.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records in the impugned order in No.TN/RO/CHN(SOUTH)/PDC/TNMA0051339000/D20/2024/7Q dated 01.03.2024 issued by the first respondent and quash the same.



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For petitioner : Mr.A.Thiyagarajan
for MR.S.Rameshkumar
For R1 : Mr.P.Vishnu

ORDER

This writ petition has been filed for issuance of writ of certiorari to quash the order dated dated 01.03.2024 passed by the first respondent in No.TN/RO/CHN(SOUTH)/PDC/TNMA0051339000/D20/2024/7Q.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a private limited company is registered under the Employees Provident Funds and Miscellaneous Provisions Act, 1952. The first respondent has initiated proceedings Section 6, 6 A (2A) and 6 C/6C (4a) of the Act read with para 38 (1) of EPF scheme 1952 and 8 (1) of EDLI scheme,1976 against the petitioner alleging that the petitioner failed to remit the provident fund contributions along with administrative charges for the year.

3. The first respondent has issued notice under Section 14 B and 7



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Q of the EPF scheme, 1952 in No.TN/CHNSOUTH/51339/D-20/Reg1/2023 dated 24.08.2023. The first respondent issued summons to the petitioner to appear on 19.09.2023 and enquiry was initiated for remittance of due period from March 2020 to November 2022 in respect of Section 7 Q of the EPF scheme, 1952.

4. The petitioner requested the first respondent to waive the damages on account of Covid pandemic. However, the first respondent has not considered the same and issued impugned orders dated 01.03.2024 directing the petitioner to pay an amount of Rs.20,30,266/- under 7 Q of the Act and Rs/23,26,460/- under Section 14 B of the EPF scheme, 1952 totalling to a tune of Rs.43,39,876/-. The learned counsel for the petitioner submitted that since proper enquiry was not conducted prior to issuance of notice and since the petitioner was not given opportunity, the petitioner sought for quashment of the impugned order.

5. Mr.P.Vishnu, the learned counsel who has taken notice for the first respondent has submitted that the first respondent has issued notice of



demand to the petitioner prior to attachment of movable and immovable properties highlighting that the petitioner has to pay an amount of Rs.43,39,876/-. It is submitted that after giving him opportunities on hearing only, the impugned orders were passed. It is further submitted that the request for waiver of penalty under Section 14 B as sought for the petitioner request cannot be considered.

6. In view of the above submissions made by both sides and on perusal of record, the relief sought for by the petitioner cannot be considered. However, considering the facts of the case, this Court is inclined to grant instalments to the petitioner to pay the above mentioned amount.

7. Accordingly, this writ petition is disposed of at the admission stage itself directing the petitioner to pay of Rs.43,39,876/- as mentioned in the notice of demand to defaulter dated 08.05.2024 in five equated monthly instalments. The first instalment shall start from 15.07.2024 and further, directed to continue to pay the rest of the amount in monthly instalments. In case if the petitioner fails to pay any one instalments then the first respondent is at liberty to demand the entire amount at once and this order for granting of



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instalment shall automatically stands vacated. Connected W.M.P.is closed.

No costs.

27.06.2024

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Issue order copy on 01.07.2024

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

To

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Chennai – 600 014.
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Dr.D.NAGARJUN,J.

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