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W.P.No.23268 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

W.P.No.23268 of 2024
and
W.M.P.No.25435 of 2024

M/s.Poomalai Housing Pvt Ltd.,
Rep. by its Managing Director,
Mr.V.Murugan,
No.409-A, 6th East Street,
Thiruvanmiyur, Chennai – 600 041.

...Petitioner

-Vs-

Assist. Provident Fund Commissioner (C&R),
Employees Provident Fund Organisation
Regional Office, 37, Royapettah High Road,
Chennai – 600 014.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorari, calling for the records of proceedings of the impugned order passed under Diary No.260/2016 vide Ref.No.CHN-south/TN/83691/Enf/Reg1/Div-18/2023 dated 28.11.2023 passed by the respondent under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 to quash the same and pass such further orders.

For Petitioner : Mr.T.M.Pappiah



W.P.No.23268 of 2024

For Respondent : Mr.Arun Dhanapalan
Standing Counsel for EPFO

ORDER

Mr.Arun Dhanapalan, learned Standing Counsel for EPFO takes notice on behalf of the respondent. With the consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed for issuance of a Writ of Certiorari, calling for the records of proceedings of the impugned order passed under Diary No.260/2016 vide Ref.No.CHN-south/TN/83691/Enf/Regl/Div-18/2023 dated 28.11.2023 passed by the respondent under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, and to quash the same.

3. Learned counsel for the petitioner contends that when the inquiry was contemplated under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, the inquiry was originally scheduled on 08.03.2016, and the auditor attended the inquiry. Due to COVID-19, the petitioner company has come to a standstill, and they were not in a position to get along with the business.



W.P.No.23268 of 2024

4. Learned counsel further contends that on 28.11.2023, the respondent passed an order in Diary No.260/2016 vide Ref.No.CHN-south/TN/83691/Enf/Regl/Div-18/2023, directing the petitioner to pay a sum of Rs.51,98,225/-, which is a due arising out of provident fund. The only contention raised by the learned counsel for the petitioner is that under the Employees Provident Fund and Miscellaneous Provisions Act, the petitioner is entitled to file an appeal.

5. Learned counsel for the respondent would contend that the condonation of delay is beyond the purview of this Court, and therefore, if the petitioner files an appeal under Section 7-I of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, the Competent Authority will consider to condone the delay, positively.

6. Learned counsel further contends that the order passed by the respondent is in accordance with law and there is no infirmity in interfering with the orders passed.

7. There is no dispute with regard to several adjournments taken on behalf of the petitioner, and on a few occasions, the respondent has also taken



W.P.No.23268 of 2024

adjournments. Without taking into account the fact of who has taken more adjournments before the Competent Authority before passing the order, this Court is not expressing any view with regard to the final order passed by the Authority. The petitioner made a request that they may be permitted to file an appeal as contemplated under the Act.

8. In view of the same, the petitioner is permitted to file an appeal. The petitioner is directed to file an appeal under Section 7-I of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, and the respondent shall consider the condonation delay before the CGIT as contemplated under the Act. Till the appeal is filed, the respondent shall not take any coercive step. The appeal shall be filed within a period of two weeks from the date of receipt of a copy of this order.

With the above observation, **the writ petition stands disposed of.**

No costs. Consequently, connected miscellaneous petition is closed.

23.08.2024

cda

Index : Yes/No

Speaking/Non-Speaking Order



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W.P.No.23268 of 2024

To

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Employees Provident Fund Organisation
Regional Office, 37, Royapettah High Road,
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N.SENTHILKUMAR, J.

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WEB COPY



W.P.No.23268 of 2024

W.P.No.23268 of 2024

23.08.2024