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W.P.No. 25612 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.25612 of 2024 and
W.M.P.Nos.27963 & 27967 of 2024

N.Abdul Samad

... Petitioner

Vs.

1.The Regional Provident Fund Commissioner - II (C&R),
Employees Provident Fund Organisation,
Regional Office, Tambaram, Chennai 600 045.

2.The Recovery Officer,
Employees Provident Fund Organisation,
Regional Office, Tambaram, Chennai 600 045.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the second respondent in his impugned order dated 15.09.2023 in reference No.TB/TAM/RO/DIV.527/63939/RECOVERY/2023 and quash the same as illegal, arbitrary and against the provisions of the Employees Provident Funds and Miscellaneous Provisions Act, 1952.

For Petitioner : Mr.Sankar Kutralingam

For Respondents : Mr.R.Thirunavukarasu



W.P.No. 25612 of 2024

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ORDER

This Writ Petition has been filed challenging the orders of the second respondent dated 15.09.2023 by stating that the second respondent has dealt the review petition filed by the petitioner even though the first respondent alone has the review power.

2. Heard Mr.Sankar Kutralingam, learned counsel for the petitioner and Mr.R.Thirunavukarasu, learned Standing Counsel for the respondents.

3. On perusal of the impugned order dated 15.09.2023, it is seen that the order has been passed in pursuant to the letter given by the petitioner on 17.08.2023. Since the second respondent has passed the order touching upon the merits of the assessment order, the petitioner claims that the letter dated 17.08.2023 should be considered as a review petition. When the petitioner is aware of the fact that the first respondent



W.P.No. 25612 of 2024

is the reviewing authority, if in all seriousness the petitioner wished to file a review petition, he could have filed it before the first respondent himself. Having made a representation by way of a letter before the second respondent on 17.08.2023, in pursuant to the recovery proceedings initiated and allowed the second respondent to pass orders on that, now the petitioner by taking advantage of his own action, expects the Court to construe his letter dated 17.08.2023 as a review filed by him.

4. The learned Standing Counsel for the respondents stoutly objected to construe that the letter dated 17.08.2023 is a review petition.

5. However, during the course of the arguments, the learned counsel for the petitioner submitted that due to Covid-19 pandemic, the petitioner was not in a position to pay the dues and if some time is given he will be able to make payment on instalments without any further objection. In such case, the petitioner is at liberty to make such a representation before the first respondent / appropriate authority himself



W.P.No. 25612 of 2024

and request him to pass orders allowing the petitioner to make payment in instalments.

6. Accordingly, this Writ Petition is disposed and the petitioner is directed to make a representation to the first respondent as observed above within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the first respondent shall consider and pass orders for allowing the petitioner to make payments in instalments as requested, within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

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W.P.No. 25612 of 2024

To

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R.N.MANJULA, J.

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