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W.P.No.25205 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.09.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.25205 of 2024 and
W.M.P.Nos.27530 & 27531 of 2024

1.M/s.Sphereo Sports Private Limited,
Rep. by its Managing Director,
1st Floor, No.50, Armenian Street,
Parrys, Chennai 600 001.

2.Ms.Anne-marie Canthaswamy,
"Divine Grace", F-66,
Anna Nagar (East), Chennai 600 102.

3.Mr.R.Krishnamoorthy

... Petitioners

Vs.

1.The Assistant Provident Fund Commissioner,
Employee's Provident Fund Organisation,
Regional Office - Tambaram,
No.3, Rajaji Salai,
West Tambaram, Chennai 600 045.

2.The Recovery Officer,
Employee's Provident Fund Organisation,
Regional Office, West 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 connection with the impugned notice bearing Ref.No.TN/RO/TBM/Recy/CP25/511/7750/2024-25 dated 19.07.2024 for



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recovery of damages of Rs.5,04,982/- under Section 14(B) of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 and quash the same.

For Petitioners : Mr.S.Gokul

For Respondents : Mr.R.Thirunavukarasu

ORDER

This Writ Petition has been filed to call for the records of the second respondent in connection with the impugned notice bearing Ref.No.TN/RO/TBM/Recy/CP25/511/7750/2024-25 dated 19.07.2024 for recovery of damages of Rs.5,04,982/- under Section 14(B) of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 and quash the same.

2. The impugned order dated 19.07.2024 has been issued by the respondent authority requiring the petitioners to submit books of accounts, bank statements and other property details by making their personal appearance on 22.08.2024. The above notice is to show cause as to why the warrant of arrest should not be issued for recovering the arrears payable by the petitioners.

3. The learned counsel for the petitioners submitted that the



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petitioners had paid all the dues and they are not liable to pay any other further dues. It is further submitted that on 09.02.2012, the petitioners had given a letter in writing to the respondents by submitting the above facts for their consideration. In the letter dated 09.02.2012, the petitioners have stated that they were not given with any prior notice for levying damages under Section 14(B) of the Act. The petitioners have further stated that the interest levied under Section 7(Q) has been remitted by them, but they have made a request not to levy any damages.

4. In the letter of the first respondent dated 24.02.2012, it is stated that the copies showing break up details and outstanding dues along with the quantum of damages has been enclosed and that the petitioners can make their representation by making use of the opportunity given for personal hearing on 19.03.2012. The petitioners have stated that they have appeared before the authorities on 19.03.2012.

5. From the records submitted by the petitioners, it is not known what is the further course of action taken subsequent to 19.03.2012 and neither the petitioners had attached the proceedings showing the imposition of damages. The fact remains that on the day when the



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petitioners were in receipt of the letter dated 24.02.2012 itself, it came to their knowledge that some damages has been assessed on them and they have not taken any further steps thereafter either by way of preferring any appeal or by way of making any representation for waiving the damages.

6. Having failed to take a recourse of availing the remedies contemplated under the statute, the petitioners have preferred this Writ Petition in a pre-matured manner or by bypassing the above procedure. The inaction on the part of the petitioners had resulted in the impugned show cause notice. But the petitioners could have approached the appellate authority, if at all they have got any grievance atleast by way of filing an appeal with a petition to condone the delay to consider their submissions as appeal against the damages assessed under Section 14(B). As the petitioners had allowed the things to reach the stage of issuing show cause notice for arrest, now they have rushed to this Court, however, without establishing any valid right.

7. In such circumstances, the petitioners are directed to give a representation or appeal along with condone delay petition in this regard to the respondents within a period of two weeks from the date of receipt



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of a copy of this order. On receipt of such representation, considering the fact that the petitioners are senior citizens, the respondents can show some benevolence in considering the appeal or representation along with condone delay petition for waiving the damages and pass appropriate orders, before initiating any coercive steps like arrest or attachment.

8. With the above direction, this Writ Petition is disposed. No costs.

Consequently, connected miscellaneous petitions are closed.

Index : Yes /No

Speaking / Non-speaking

Neutral Citation : Yes / No

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R.N.MANJULA, J.

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To

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West Tambaram, Chennai 600 045.

2.The Recovery Officer,
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