



WEB COPY

W.P.No.27832 of 2024
and W.M.P.Nos.30341 & 30343 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.27832 of 2024
and W.M.P.Nos.30341 & 30343 of 2024

D.John Wesley
S/o.D.Devasagayam,
Partner of J.V.Industries,
No.B4/8, Industrial Plots,
Maraimalainagar,
PIN - 603 209.

...

Petitioner

versus

1.Employees Provident Fund Organisation,
Represented by its Commissioner,
No.37, Royapettah High Road,
Chennai - 600 014.

2.The Recovery Officer,
Regional Office, Tambaram,
Employees Provident Fund Organisation,
No.3, Rajaji Salai,
Chennai - 600 045.

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent in notice dated 07/24 in proceedings of the second respondent made in No.TN/RO/TBM/Recy/CP25/526/1297432/2024-25,



and quash the same, and to direct the first and second respondent to bring the employees of the petitioner firm under the EPF scheme, by allotting their membership to the funds, by considering the representation of the petitioner dated 30.08.2024 on merits and as per law, before invoking any penal action against the petitioner.

For Petitioner : Mr.B.Divakaran
For Respondents : Mr.R.Thirunavakkarasu
Standing Counsel for EPF

ORDER

The writ petition has been filed challenging the order of the second respondent dated 31.07.2024.

2. Heard Mr.B.Divakaran, learned counsel for the petitioner and Mr.R.Thirunavakkarasu, learned Standing Counsel for the respondents and perused the materials available on record.

3. Mr.B.Divakaran, learned counsel for the petitioner submitted that the petitioner's Company has been closed and there is severe financial crunch and that is the reason why, the petitioner cannot fulfill the demand. It also appears that the petitioner has given representation to the second respondent to consider his present position and do the needful.



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4. Mr.R.Thirunavakkarasu, learned Standing Counsel for the respondents submitted that despite the order under Section 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, for recovery of arrears have been made as early as on 09.04.2024, the petitioner did not prefer to file any appeal. But he has filed this writ petition only after the recovery notice has been issued.

5. In all matters, where the arrears of EPF contribution payable by the management are determined through 7-A proceedings, if the establishment is not satisfied with the determination, it is open to the management to file an appeal. In this writ petition, the order under challenge is show cause notice issued as to why the petitioner should not be arrested for his failure to pay the demand.

6. After making a delay and inviting a recovery notice, this kind of writ petition is filed just to bargain further time and the petitioner did not prefer to exhaust the statutory remedy available to him. However, considering the representation dated 30.08.2024 given by the petitioner to the second respondent, I feel it is appropriate to direct the second respondent



to consider the same in view of the circumstances now pleaded by the petitioner and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. Until then, the second respondent shall not take any coercive action.

7. With the above observations, this Writ Petition is **disposed**. No costs. Consequently, connected Miscellaneous Petitions are closed.

23.09.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri

To

1.The Commissioner,
Employees Provident Fund Organisation,
No.37, Royapettah High Road,
Chennai - 600 014.

2.The Recovery Officer,
Regional Office, Tambaram,
Employees Provident Fund Organisation,
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R.N.MANJULA, J.

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