



WEB COPY



W.P.No.31909 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

W.P.No.31909 of 2024

and

W.M.P.No.34656 of 2024

M/s.Expertus Infotech Private Limited
Represented by its Authorised Signatory
Mr.Praveen Kumar
No.9/10, Gokul Towers,
4th Floor, C.P.Ramasamy Road,
Alwarpet, Chennai – 600 018.

...Petitioner

-Vs-

Assistant Provident Fund Commissioner
Employee's Provident Fund Organization
No.37, Royapettah High Road,
Azad Nagar, Royapettah,
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 Certiorarified Mandamus, to call for the entire records relating proceedings No.TN/RO/CHN-I/VV-II/TNMAS0050356000/Div.23/PDC/2024 dated 25.09.2024 issued under Section 14B and Section 7Q of the EPF & MP Act, 1952 passed by setting the petitioner Company Ex-parte vide order dated



W.P.No.31909 of 2024

10.09.2024 passed in Diary No.794/2024 for the period assessment made between 01/2016 to 03/2017 by the respondent and quash the same and pass such further orders.

For Petitioner : Mr.R.Sri Hari
For Respondent : Mr.K.Venkatesan
Standing Counsel for EPFO

ORDER

Mr.K.Venkatesan, 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 Certiorarified Mandamus, to call for the entire records relating proceedings No.TN/RO/CHN-I/VV-II/TNMAS0050356000/Div.23/PDC/2024 dated 25.09.2024 issued under Section 14B and Section 7Q of the EPF & MP Act, 1952 passed by setting the petitioner Company Ex-parte vide order dated 10.09.2024 passed in Diary No.794/2024 for the period assessment made between 01/2016 to 03/2017 by the respondent and quash the same.



W.P.No.31909 of 2024

3. The case of the petitioner is that M/s.Expertus Infotech Private Limited being a Private Limited Company was engaged in the business of software consultancy and services from 18.12.2001. The petitioner Company is covered under the Employees Provident Fund and Miscellaneous Provisions Act, 1952, with code No.TNMAS0050356000. The petitioner Company is aggrieved by proceedings No.TN/RO/CHN-I/CC-II/TNMAS0050356000/Div.23/PDC/2024 dated 25.09.2024 passed by the respondent on the basis of the final order in Diary No.794 of 2024 dated 10.09.2024 against the belated remittance of Provident Fund Contribution made by the petitioner Company for the due period 01.01.2016 to 31.03.2017 along with the interest for the delay in payment totally amounting to a tune of Rs.4,88,735/-.

4. The petitioner contends that the impugned order was passed without giving notice, and the service of notice was not at the registered address. The petitioner contends that no opportunity was given to the petitioner before passing the impugned order and the learned counsel for the petitioner prayed for an interim order.



W.P.No.31909 of 2024

5. Learned counsel for the respondent would contend that when an application is made under Section 14B of EPF & MP Act, 1952 then the petitioner shall approach the Tribunal and with regard to 7A order, the petitioner can approach the Authority itself. Learned counsel vehemently opposed since the respondent is only Authority as per Section 7Q of the Act, the petitioner shall approach the Authority. As it is seen, the impugned order relates to the period from 01.01.2016 to 31.03.2017 and the impugned order relates only with regard to the belated interest.

6. It is also further contended by the learned counsel for the respondent that the present writ petition itself is not maintainable as the petitioner has to approach the concerned Authority under Section 7A or before the Tribunal as per Section 14B of EPF & MP Act, 1952. However, without going into the merits or the maintainability of the writ petition, the above writ petition is disposed of in the following directions.

7. The petitioner is directed to file an application before the Competent Authority and the respondent shall consider the same within a period of six weeks. Till an application is made by the petitioner and the



W.P.No.31909 of 2024

order is passed by the respondent within a period of six weeks, the respondent shall not proceed against the petitioner based on this impugned order.

With the above observation and directions, the **writ petition stands disposed of**. No costs. Consequently, connected miscellaneous petition is closed.

25.10.2024

cda

Index : Yes/No

Speaking/Non-Speaking Order

To

Assistant Provident Fund Commissioner
Employee's Provident Fund Organization
No.37, Royapettah High Road,
Azad Nagar, Royapettah,
Chennai – 600 014.



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W.P.No.31909 of 2024

N.SENTHILKUMAR, J.

cda

W.P.No.31909 of 2024

25.10.2024



WEB COPY



W.P.No.31909 of 2024