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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

W.P.Nos.14228 & 14231 of 2025
and
W.M.P.Nos.15999 & 16002 of 2025

M/s.NFA Life Secure Pvt. Ltd.,
Represented by its Chief Executive Officer,
Sundeep,
S/o.Sudhakara Menon,
Having office at
No.41-A, Kutty Street, Nungambakkam,
Chennai – 600 034. ... Petitioner in both WPs

Vs.

The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Regional Office, Chennai (North),
No.37, Royapettah High Road,
Chennai – 600 014. ... Respondent in both WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent by proceedings in No.TN/RO/CHN-I/CC-I(PDC)/TN/54101/D-522/2024 dated 08.01.2025 and quash the same and consequently direct the respondent to withdraw the recovery proceedings initiated against the petitioner company.

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For Petitioner (in both WPs) : Mr.P.Saravana Sowmiyan

For Respondent (in both WPs) : Mr.M.Palanimuthu Standing Counsel

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COMMON ORDER

These Writ Petitions have been filed by the petitioner seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent by proceedings in No.TN/RO/CHN-I/CC-I(PDC)/TN/54101/D-522/2024 dated 08.01.2025 and quash the same and consequently, to direct the respondent to withdraw the recovery proceedings initiated against the petitioner company.

2. Mr.M.Palanimuthu, learned Standing Counsel, accepts notice on behalf of the respondent. In view of the consent expressed by the learned counsel for the parties, these Writ Petitions are taken up for final disposal at the stage of admission.

3. The case of the petitioner is that it is a company incorporated on 31.03.2005 and engaged in business of contracting for fire protection and fire detection systems. It is an establishment within the meaning of the

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Employees Provident Funds and Miscellaneous Provisions Act, 1952 (in short 'the EPF Act') and has been regularly complying under the provisions of the Act. Whileso, due to recession in the business in the year 2019, the petitioner company paid the contributions with short delay but without any default. While this being so, the respondent issued a summon dated 04.07.2023 along with the annexure directing the petitioner company to appear for hearing without furnishing any date of hearing with respect to payment of damages u/s 14B and payment of interest for belated remittance u/s 7Q of the Act for the period from 01.04.2021 to 31.03.2023. Another summon dated 05.06.2024 for hearing on 27.06.2024 was issued without annexure by mentioning for a different period from 01.04.2021 to 31.03.2024. Therefore, the petitioner company made a representation dated 22.08.2024 requesting to waive the interest and damages on the ground of covid pandemic and also that the petitioner company is a prompt and regular complaint of the payment of PF contribute. Thereafter, the petitioner was paying contributions by borrowing on interest and strictly adhering to the compliance. While this being so, all of a sudden the petitioner company received the two separate orders of the respondent vide impugned proceedings dated 08.01.2025 passed u/s 7Q and 14B of the EPF Act, directing the

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petitioner to pay a sum of Rs.3,87,372/- towards damages and Rs.1,97,818/- as interest on mere presumption and surmises. Challenging the same, the petitioner had filed the present writ petitions before this Court.

4. Learned counsel appearing for the petitioner submitted that in respect of 14B damages, when there is no arrears in payment of contribution, then only 14B damages can be imposed. However, the petitioner company is regularly paying the contribution without any default. Due to financial crisis, the petitioner company was not able to pay the contribution in time for the period from 01.04.2021 to 31.03.2023, for which, the respondent had issued the impugned proceedings demanding the damages without conducting any enquiry and without adjudicating the waiver application filed by the petitioner, which is wholly unsustainable. Hence, he prays that the impugned order dated 08.01.2025 passed by the respondent demanding 14B damages may be set aside and remanded to the respondent for fresh consideration. Further, in respect of 7Q interest demanded by the respondent, he submitted that it would suffice, if this Court permits the petitioner company to remit the determined amount of Rs.1,97,818/- in 5 equatted monthly installments.

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5. Per contra, learned Standing Counsel appearing for the respondent submitted that default in payment of contribution also attracts Section 14B of the EPF Act and as per the schedule and columns damages were demanded by way of impugned order. He further submitted that there is no need for any elaborate discussion between the petitioner and the respondent, since the petitioner has agreed that he paid the contribution with delay, for which, the respondent is entitled to claim damages. Hence, he submitted that the impugned order does not require any interference.

6. Heard the learned counsel appearing for the parties and also perused the materials available on record.

7. Admittedly, the petitioner company has filed a waiver application before the authority, however without affording any opportunity to the petitioner company, the respondent has passed the impugned order demanding 14B damages of Rs.3,87,372/- from the petitioner company, which is in violation of principles of natural justice. On the sole ground, this Court is inclined to set aside the impugned order

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passed by the respondent in respect of 14B damages. Accordingly, the impugned proceeding issued u/s 14B of the EPF Act by the respondent dated 08.01.2025 is set aside and the matter is remanded to the respondent for fresh consideration. While re-considering the same, the respondent is directed to provide opportunity to the petitioner company with regard to the waiver application filed by the petitioner and pass appropriate orders, within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. In view of the limited request sought for by the learned counsel appearing for the petitioner company, this Court without going into the merits of the case, permits the petitioner company to remit the entire demand amount of Rs.1,97,818/- (Rupees One Lakh Ninety Seven Thousand Eight Hundred and Eighteen only) demanded by the respondent u/s 7Q of the EPF Act by way of five (5) equated monthly installments, commencing from 10th June, 2025 and shall continue to pay the installments on or before 10th of every succeeding English Calendar month, failing which, it is open to the respondent to initiate appropriate action against the petitioner in accordance with law.

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10. In the result, W.P.No.14228 of 2025 is allowed and W.P.No.14231 of 2025 is disposed of. No costs. Consequently, the connected writ miscellaneous petitions are closed.

22.04.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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Note: Issue order copy on 09.06.2025.

To

The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Regional Office, Chennai (North),
No.37, Royapettah High Road,
Chennai – 600 014.

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M.DHANDAPANI, J.

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