



W.P.(MD) No.3094 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.3094 of 2018
and
W.M.P.(MD) No.3246 of 2018

M/s.Venus Security Force
rep.by its Proprietor
West Marianathapuram
John Britto Lane
Dindigul-624 003

... Petitioner

-VS-

- 1.The Assistant Provident
Fund Commissioner
E.P.F.Organisation
Regional Office
Lady Doad College Road
Chokkikulam
Madurai-625 002
- 2.The Recovery Officer
Office of the Recovery Officer
E.P.F.Organisation
Regional Office
Lady Doak College Road
Chokkikulam
Madurai-625 002

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records in File No.MD/MDU/57004/Enf.B/Circle32/32002/2016, dated 06.09.2016, issued by the first respondent and No.TN/MDU/57004/Recy/CP25/2018, dated 17.01.2018, issued by the second respondent and quash the same as illegal, arbitrary and further direct the first respondent to afford opportunity of personal hearing and consider the relevant records and payments paid by the petitioner and thereafter to pass order afresh.

For Petitioner : Mr.N.Sudalai Muthu

For Respondents : Mr.R.Ravikumar

ORDER

This writ petition has been filed by the petitioner challenging the order dated 06.09.2016, passed by the first respondent under Section 7A(1)(b) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (in short, "the Act, 1952"), whereby the petitioner was required to pay a sum of Rs.2,44,552/- towards the provident fund dues and the consequential proceedings dated 17.01.2018, issued by the second respondent.



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2. Though a remedy of appeal is available under Section 7-I of the Act, 1952, the petitioner has approached this Court by filing the present writ petition under Article 226 of the Constitution of India complaining violation of the principles of natural justice as well as non-application of mind on the part of the first respondent while passing the impugned order.

3. This is a case where the petitioner is already registered under the provisions of the Act, 1952 with Code No.TN/57004 and has been remitting the provident fund contributions in respect of 21 employees. However, the impugned order has been passed by the first respondent alleging failure on the part of the petitioner to remit the provident fund contributions in respect of 31 employees, who are stated to be not enrolled with the respondent – Organisation.

4. After hearing the matter for quite sometime, it is emerged that the allegation of 31 employees stated to be not enrolled with the respondent – Organisation is actually incorrect and out of 31 employees, 21 employees were already enrolled with the respondent – Organisation. This aspect of the matter is not disputed by the learned counsel appearing for the respondents.



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5. In the light of the admitted fact situation, the impugned order treating all the 31 employees as non-enrolled employees and fixing liability against the petitioner, cannot be sustained in view of the fact that the petitioner has already been remitting the provident fund contributions in respect of 21 employees out of 31 employees, who are alleged to be not enrolled with the respondent – Organisation. Thus, it is evident on face of the impugned order that there is an error and non-application of mind on the part of the first respondent while passing the impugned order.

6. Further, it is necessary to be noted that while entertaining the present writ petition, this Court was pleased to grant interim order on 15.02.2018 on condition that the petitioner deposits 50% of the amount claimed under the impugned order.

7. According to the learned counsel for the petitioner, the petitioner has already complied with the said condition and deposited 50% of the amount claimed under the impugned order.



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8. In the light of the above, this Court is of the considered view that this is a fit case, where the matter has to be remanded back to the first respondent for fresh determination.

9. Accordingly, this writ petition is allowed and the impugned orders, dated 06.09.2016 and 17.01.2018, passed by the first respondent and second respondent respectively, are quashed and the matter is remanded back to the first respondent for considering the matter afresh by duly affording an opportunity of personal hearing to the petitioner. Further, the amount, that was deposited by the petitioner pursuant to the interim order dated 15.02.2018 passed by this Court, shall be subjected to the fresh order to be passed by the first respondent. The first respondent is also directed to conclude the proceedings as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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