(2011) 09 MAD CK 0329

In the Madras High Court

Case No : Writ Petition (MD) No. 5056 of 2009 and M.P. (MD) No. 1 of 2009

Jai Renga Mills Private Limited — APPELLANT

Vs

The Regional Provident Fund Commissioner, Employees' Provident Fund Organisation, Regional Officer, No. 1, Lady Doak College Road, Chokkikulam, Madurai-2 and The Enforcement Officer, Employees' Provident Fund Organisation, Sivakasi, Virudhunagar District — RESPONDENT

Date of Decision : 05-09-2011

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 8F

Citation : (2011) 09 MAD CK 0329

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : M. Saravana Kumar, for the Appellant; G.R. Swaminathan, for the Respondent

Judgement

Honourable Mr. Justice Vinod K. Sharma

1. The Petitioner has approached this Court, for issuance of a Writ, in the nature of Certiorari, to quash the order dated 08.05.2009, passed by the first Respondent rejecting the prayer of the Petitioner, for renewal and reschedule of installment facilities, to clear the dues pertaining to the period 12/2006 to 02/2008 and 07/2008 to 12/2008, on the ground, that the Petitioner had misled the Office, by stating that the employees'' share of Provident Fund Contributions for the period 02/2009 and 03/2009 stood paid, whereas the amount was only credited on 06.05.2009.

2. The Petitioner was directed, to remit the amount upto the month 04/2009.

3. This Court, in M.P. (MD) No. 1 of 2009 in W.P. (MD) No. 5056 of 2009, on 17.06.2009 had passed the following order:

In paragraph No. 5 of the affidavit filed in support of the writ petition, the

Petitioner averred that the first Respondent has passed an order dated 09.06.2008 granting 23 equal monthly installments to clear the outstanding dues of Rs. 22,80,397/- (Rupees Twenty Two Lakhs Eighty Thousand Three Hundred and Ninety Seven only) and the Petitioner had started complying with the said order and paid a sum of Rs. 1,00,000/- (Rupees One Lakh only) per month from the month of April 2008. The Petitioner further submitted a letter dated 14.03.2009 praying for some time so as to enable them to pay the outstanding installments and monthly installment from the month of April 2009 regularly as they are taking emergent steps to mobilize the funds, but all of a sudden, without any notice, the Respondents have rejected the requisition for installment facility and called upon them to remit all the dues upto the month of April 2009 and also threatening them with recovery action without further notice. The Petitioner also averred that the first Respondent has already issued notice u/s 8F of the Employees Provident Fund Act on 11.03.2009 to freeze the accounts of the Petitioner.

2. This Court has heard the submissions of the Learned Counsel for the Petitioner also.

3. Taking into consideration the averments made in the affidavit and the facts and circumstances of the case, this Court is inclined to pass the order of interim stay. There will be an order of interim stay of the impugned notice of demand in No. M-8/TN/10314/ENF."B"/RO/ MD/09 dated 08.05.2009 issued by the first Respondent for a period of four weeks.

4. Notice through court as well as privately is permitted returnable by then.

5. The Learned Counsel for the Petitioner is also permitted to serve notice on the learned Standing Counsel for the Respondents.

4. The Learned Counsel for the Respondents contends, that the writ petition has been rendered infructuous, as the prayer of the Petitioner is to grant 29 installments, and the period in which these were to be paid has already expired. This cannot be accepted, for the reason, that this Court had stayed the recovery proceedings, therefore, no fault can be found with the Petitioner, in not depositing the amount within the period asked for.

5. In view of the fact that the Petitioner wants to deposit the contribution and the object of the Respondents is also to collect the contribution for the benefit of the employees, this Writ Petition is disposed of, by giving liberty to the Petitioner, to pay the amount in SIX equated monthly installments, commencing from October 2011. It is made clear, that if the amount is not paid in SIX equated monthly installments, or any default is committed in payment of installment, it will be open to the Respondents, to proceed with recovery proceedings, in accordance with law.

No costs.

Consequently, the connected M.P.(MD) No. 1 of 2009 is closed.

