

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 8598 of 2012 (Y)

PETITIONER :

**M/S INDIAN OIL CORPORATION LIMITED.,
COCHIN DIVISIONAL OFFICE, PANAMPILLY NAGAR,
KOCHI-682 035, REPRESENTED BY ITS MANAGER (RETAIL SALES)
MR.R.RADHAKRISHNAN.**

**BY ADVS.SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI**

RESPONDENT(S):

- 1. THE ASSISTANT PROVIDENT FUND COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANIZATION,
SUB REGIONAL OFFICE, 36/685 A, BHAVISHYANIDHI BHAVAN,
P.B.NO.1895, KALOOR, KOCHI-682 017**
- 2. EMPLOYEES PROVIDENT FUND APPELLATE TRIBUNAL,
SCOPE MINAR, CORE II, 4TH FLOOR,
LAXMI NAGAR DISTRICT CENTRE, LAXMI NAGAR,
NEW DELHI-110 092**
- 3. M/S.MAMBRA FUELS(IBP AUTO SERVICE),
EDAMUTTOM, THRISSUR-680 568**
- 4. M/S. STATE BANK OF INDIA,
OVERSEES BRANCH, WILLINGDON ISLAND,
COCHIN-682 003**

**R1 BY DR.S.GOPAKUMARAN NAIR,SENIOR ADVOCATE
ADV. SRI.A.RAJASIMHAN,SC,EPF ORGANISATION
R3 BY ADV.SRI.MANU S. GOVIND
R4 BY ADV. SRI.P.V.SURENDRANATH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S) EXHIBITS

- EXT.P1:- TRUE COPY OF THE DEALERSHIP AGREEMENT DTD 2/6/2009
BETWEEN THE PETITIONER AND 3RD RESPONDENT**
- EXT.P2:- TRUE COPY OF THE SUMMONS TO WITNESS DTD 30/9/2011 ISSUED BY
THE IST RESPONDENT**
- EXT.P3:- TRUE COPY OF THE LETTER DTD 8/10/2010 BY THE PETITIONER TO
THE ENFORCEMENT OFFICER, EMPLOYEES PROVIDENT FUND
ORGANIZATION, THRISSUR**
- EXT.P4:- TRUE COPY OF THE STATEMENT FILED BY THE PETITIONER BEFORE
THE IST RESPONDENT DTD 7/12/2011**
- EXT.P5:- TRUE COPY OF THE NOTICE DTD 30/9/2011 ISSUED BY THE IST
RESPONDENT.**
- EXT.P6:- TRUE COPY OF THE ORDER DTD 14/2/2012 PASSED BY THE IST
RESPONDENT.**
- EXT.P7:- TRUE COPY OF THE LETTER DTD 27/3/2012 ISSUED BY THE IST
RESPONDENT.**

RESPONDENTS' EXHIBITS : NIL

/TRUE COPY/

P.S.TO.JUDGE

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K. Vinod Chandran, J.

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W.P.(C)No.8598 of 2012

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Dated this the 15th day of January, 2015.

JUDGMENT

1. Petitioner is aggrieved with Ext.P6 order, which has been passed under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. The specific issue dealt with was the coverage of the employees under the third respondent, a separate dealership of the petitioner. The dealer was proceeded against and in the course of enquiry, it was found that, the company, which was the Principal, was responsible for the workmen and hence, the Company was also mulcted with the liability to pay the amounts, computed under Section 7A, by Ext.P6 order. The petitioner Company chose to file the above writ petition, contending that, such liability, mulcted on the petitioner, is totally without jurisdiction.

2. In any event, it is submitted by the learned counsel for the petitioner

that, the dealer, one Soumya Balakrishnan, who was at the relevant time carrying on the dealership of the third respondent, had filed an appeal before the Employees' Provident Funds Appellate Tribunal, New Delhi against Ext.P6. The appeal, numbered as ATA 335(7)/12, has been allowed by the Tribunal on 2.4.2013. The writ petition, alternatively filed by the said Soumya Balakrishnan, numbered as W.P.(C)No.28870/2011, also is said to have been closed, on the appeal, having been allowed. Ext.P6 passed against the third respondent, hence, does not survive. If the order under Section 7A does not survive, then there is no question of any liability cast on the petitioner.

Writ petition is allowed, setting aside the recovery proceedings initiated against the petitioner.

Sd/-

K. Vinod Chandran, Judge.

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/true copy/