

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No. 7258 of 2015 (F)

PETITIONER(S):

1. **M/S. ALWAYS FERTILIZER INDUSTRIES PRIVATE LTD,
KEEZHMAD, ALWAYS- 683 106,
REPRESENTED BY MANAGING DIRECTOR,
K.A.ABDULKHADER.**
2. **SRI.K.A.ABDULKHAER,
KAROTH KUZHY HOUSE,
HP 25, K.K.P.NAGAR, U.C.COLLEGE.P.O.,
ALUVA -683 102.**

BY ADV. SRI.K.N.CHANDRABABU

RESPONDENT(S):

1. **UNION OF INDIA,
REPRESENTED BY SECRETARY TO CENTRAL GOVERNMENT,
MINISTRY OF LABOUR, NEW DELHI.**
2. **REGIONAL PROVIDENT FUND COMMISSIONER,
SUB REGIONAL OFFICE, 36/685, A BHAVISHYANIDHI BHAVANA, P.B.NO.1895,
KALLOOR, KOCHI -682 017.**
3. **THE ASSISTANT PROVIDENT FUND COMMISSIONER,
SUB REGIONAL OFFICE, 36/685, A BHAVISHYANIDHI BHAVAN, P.B.NO.1895,
KALLOOR, KOCHI -682 017.**
4. **RECOVERY OFFICER,
OFFICE OF THE RECOVERY OFFICER, EMPLOYEES PROVIDENT FUNDS,
BHAVISHYANIDHI BHAVAN, P.B.NO 1895, KALLOOR, KOCHI -682 017.**
5. **THE ENFORCEMENT OFFICER,
EMPLOYEES PROVIDENT FUND ORGANIZATION, SUB REGIONAL OFFICE,
36/685/A, BHAVISHYANIDHI BHAVAN, KALLOOR -17.**

**R1 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2-R5 BY SRI.S.PRASANTH, SC
R2-R5 BY SRI.A.RAJASIMHAN,SC,EPF ORGANISATION
R2-R5 BY DR.S.GOPAKUMARAN NAIR (SR.)**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

vmr.

2/-

APPENDIX

PETITIONERS EXHIBITS

- EXHIBIT P1- TRUE COPY OF THE CERTIFICATE OF REGISTRATION NO.A12/6410/95 DATED 24/01/96 ISSUED IN FAVOUR OF THE FIRST PETITIONER BY THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, ERNAKULAM.
- EXHIBIT P2- TRUE COPY OF THE ORDER DATED 07/03/1996 ISSUED BY THE ASSISTANT PROVIDENT FUND COMMISSIONER.
- EXHIBIT P3- TRUE COPY OF THE COMPLAINT IN S.T.NO.1799/95 FILED BY THE 4TH RESPONDENT AGAINST THE PETITIONER BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, ALUVA.
- EXHIBIT P4- TRUE COPY OF THE STATEMENT PREPARED BY THE SECOND PETITIONER IN RESPECT OF THE NON PAYMENT OF THE EMPLOYER'S CONTRIBUTION INVOLVED IN THE CRIMINAL CASES.
- EXHIBIT P5- TRUE COPY OF THE STATEMENT PREPARED BY THE SECOND PETITIONER IN RELATION OF PF DUES FROM 3/94 TO 10/94 BY THE EMPLOYER.
- EXHIBIT P6- TRUE COPY OF THE STATEMENT SHOWING REMITTANCES MADE FOR THE PERIOD FROM 3/94 TO 10/94 AND BALANCE AMOUNT PAYABLE BY THE PETITIONERS PREPARED BY THE SECOND PETITIONER.
- EXHIBIT P7- TRUE COPY OF THE LETTER DATED 30/01/2003 SENT BY THE PETITIONERS FOR SENDING THE DEMAND DRAFT.
- EXHIBIT P8- TRUE COPY OF THE DEMAND DRAFT FOR RS.429.20 SENT ALONG WITH THE LETTER DATED 30/01/2003 BY THE PETITIONERS.
- EXHIBIT P9- TRUE COPY OF THE STATEMENT SHOWING DETAILS OF THE PAYMENT EFFECTED ON VARIOUS DATES STARTING FROM 02/03/95 TO 4-8-97 TOWARDS PF DUES.
- EXHIBIT P10- TRUE COPY OF THE ORDER ATTACHMENT NO.KR/KC/13761/RECOVERY/2002-03 DATED 21/02/2003.
- EXHIBIT P11- TRUE COPY OF THE JUDGMENT IN O.P.NO.8459 OF 997 OF THIS HONOURABLE COURT.
- EXHIBIT P12- TRUE COPY OF THE NOTICE NO KR.KH/13761/2003 DATED 09/01/2004.
- EXHIBIT P13- TRUE COPY OF THE ORDER DATED 25/10/96 ISSUED BY THE ASSISTANT PROVIDENT FUND COMMISSIONER.
- EXHIBIT P14- TRUE COPY OF THE NOTICE NO.KR/13761/EO/PVJ/RECOVERY /07 DATED 04/10/2007.

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**EXHIBIT P15- TRUE COPY OF THE REPLY DATED 22/10/2007 SUBMITTED BY THE
PETITIONER TO EXHIBIT P13 NOTICE.**

**EXHIBIT P16- TRUE COPY OF THE REPRESENTATION DATED 03/02/2015 SUBMITTED
BY THE PETITIONER.**

**EXHIBIT P17- TRUE COPY OF THE APPLICATION DATED 25/02/2015 SUBMITTED BY
THE PETITIONER UNDER RTI ACT TO THE CHIEF INFORMATION
OFFICER, EPF ORGANIZATION.**

RESPONDENTS EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

vmr.

K. VINOD CHANDRAN, J.
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W.P.(C) No.7258 of 2015 - F
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Dated this the 1st day of April, 2015

J U D G M E N T

The petitioner is aggrieved with the purported recovery proceedings initiated by the respondent organisation under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for brevity, 'EPF & MP Act') for recovery of amounts due for the period 01/1996 to 08/1996. The specific challenge made is to Exts.P12, P13 and P15. All relating to a far earlier period. Ext.P12 is a demand dated 09.01.2004, on the basis of Ext.P13 assessment order dated 25.10.1996. A further notice is also seen to have been issued, which is dated 04.10.2007 produced at Ext.P14. The contention of the respondent organisation is that, the amounts due as per Ext.P13 has not been paid till date.

2. However, the learned Counsel for the petitioner submits that, even before Ext.P12 demand was issued, the entire amounts due as per Ext.P13 for the period between 01/1996 to 08/1996 was satisfied by the petitioner by paying the amounts to the account of the respondent organisation maintained in the State Bank of India and that the copy of the vouchers are available with the petitioner.

3. In such circumstance, what is required is only cross-verification of the copy of the vouchers produced; with the respondent Bank and the account maintained by the respondent organisation. The petitioner hence, shall appear before the 3rd respondent on 28.04.2015, on which date, the copies of vouchers shall be produced and the 3rd respondent shall give a specific date after a period of one month, within which time, the remittances shall be cross-verified with the Bank of the respondent organisation. On the date fixed, the petitioner shall be heard and a written order passed as to any pending dues or the satisfaction by the 3rd respondent.

No proceedings shall be taken when the matter is pending before the 3rd respondent and without a written order communicated to the petitioner, as directed herein above.

The writ petition is disposed of.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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// true copy //

P.A to Judge