

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.Nos.35961 & 35962/2015 & MP.No.1/2015 & 1/2015

M/s.Unitex International Private Limited
rep. by its Managing Director, P.K.Radhakrishnan,
No.92, PCI Colony, Chevvaipet, Tiruvallur 602025.

.. Petitioner in both the writ petitions

Versus

1.The Commissioner,
EPF Organisation,
No.37, Royapettah High road
Chennai 600 014.

2.The Assistant Provident Fund Commissioner
rep.by Rakesh Kumar Sinha,
EPFO Sub Regional Office
R.-40, TNHB Office cum Shopping Complex
Mugappair Road, Mugappair, Chennai 600 037.

3.The Enforcement Officer
rep. by Mr.Elumalai
EPFO Sub Regional Office
R.-40, TNHB Office cum Shopping Complex
Mugappair Road, Mugappair, Chennai 600 037.

..

Respondents in both petitions

Writ petitions filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records of the 2nd respondent and to quash the orders passed by the 2nd respondent levying damages under section 14-B of the Employees' Provident Funds and Miscellaneous Provisions Act 1952 vide proceedings No.TN/SRO/AMB/68188/000/PDC/205/2015/01 and under section 7-8 of the Employees Provident funds and Miscellaneous Provisions act, 1952 vide proceedings No.TN/SRO/AMB/68188/000/PDC/205/2015/02 dated 15.10.2015 on the ground of being illegal, arbitrary, violative of enquiry procedures, principles of natural justice and consequently direct the respondents to conduct fresh enquiry by recording petitioner's submissions and furnishing him a copy of the enquiry proceedings.

For Petitioner in both
the writ petitions : Mr.S.P.Srinivasan
For Respondents in
both the petitions : Mr.T.R.Sundharam for R1

COMMON ORDER

Heard Mr.S.P.Srinivasan, learned counsel for the petitioner and Mr.T.R.Sundharam, learned counsel accepting notice on behalf of the 1st respondent and with their consent, the writ petitions are disposed of at the admission stage itself.

2 The petitioner is a private limited company and the challenge made in these writ petitions is to the orders passed by the 2nd respondent dated 15.10.2015, by which the authority has levied damages under section 14-B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952. It is not in dispute that the petitioner has an effective alternative remedy as against the impugned orders by way of an appeal. There is no reason assigned in the writ petitions as to why the petitioner has by-passed the remedy and filed the writ petitions.

3 Learned counsel appearing for the petitioner, in the course of arguments submitted that the limitation would expire by tomorrow [06.11.2015]. However, this cannot be a reason to by-pass the statutory alternative remedy available under the Act.

4 Hence, the writ petitions are dismissed as not maintainable, giving liberty to the petitioner to file an appeal petition before the Appellate Authority under the Act. No costs. Consequently, the connected miscellaneous petition is closed.

5 The Registry is directed to return the original impugned orders [in both the writ petitions] to the petitioner by tomorrow [06.11.2015].

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

AP

To

1.The Commissioner,
EPF Organisation,
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+2 ccs to Mr.S.P.Srinivasan, Advocate, sr.60898 and 60899

+ 2 ccs to M/s.T.R.Sundaram, Advocate Sr 61681 (7/1/16)

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bvr co
kra 06/11/2015



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