

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 09.02.2015

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE **K.RAVICHANDRABAABU****W.P. (MD) No.1377 of 2015****and****M.P. (MD) .No.1 of 2015**

P.Anandaraman

... Petitioner

Vs.

1. The Recovery Officer,
Office of the Recovery Officer,
Employees Provident Fund Organisation,
Regional Office,
Lady Doak College Road,
Chokkikulam,
Madurai.

2. The Employees Provident Fund Appellate Tribunal,
Laxmi Nagar,
New Delhi 110092.

R2 impleaded as per the order of this Court
dated 09.02.2015 in M.P.(MD).No.2 of 2015 in
W.P. (MD).No.1377 of 2015. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of attachment of immovable property passed by the first respondent in TN/MDU/59164/Recy/CP 162161/2014 dated 23.12.2014 and quash the same and further direct the respondent not to initiate further steps for recovering any amount on the basis of order passed by Regional Provident Fund Commissioner-II, Madurai in File No.MDU/59164/74/(4)/Enf.B/Circle 22.04.2009 to 9/2012/220/2013 till the disposal of the appeal filed by the petitioner before the Employees Provident Fund Appellate Tribunal, New Delhi.

For Petitioner
For Respondent

: Mr.R.Devaraj
: No appearance

**ORDER**

The petitioner is aggrieved against the order passed by the first respondent dated 23.12.2014, whereby the petitioner was restrained from transferring or charging the property as referred to in the impugned order in any way. Consequently, the petitioner also seeks for a direction to the first respondent not to initiate further steps for recovering any amount on the basis of order passed by Regional Provident Fund Commissioner-II, Madurai, till the disposal of the appeal filed by the petitioner before Employees Provident Fund Appellate Tribunal, New Delhi, who is the second respondent herein.

2. It is seen that the petitioner Company engaged in the manufacture of safety matches was proceeded under the provisions of Employees Provident Fund and Miscellaneous Provisions Act, 1952, for non-payment of dues from April 2009 to September 2012. Consequent upon an enquiry conducted under Section 7(A) of the said Act, the Regional Provident Fund Commissioner-II, Madurai found that the petitioner failed to submit sufficient proof and failed to produce salary and wages register for the period of enquiry and consequently determined the provident fund contribution based on his best judgment by an order dated 15.04.2014. Thus, the said authority directed the petitioner to pay a sum of Rs.15,40,272/-. A Review Petition filed under Section 7(B) of the said Act was also dismissed on 21.07.2014. Thereafter, the petitioner preferred a statutory appeal before the second respondent herein. It appears that the said appeal has been filed along with applications to extend the period of limitation in filing the appeal as there was some delay in preferring the same and for waiver of pre-deposit. When those applications are pending before the appellate authority, the present impugned order of attachment of immovable property came to be passed by the first respondent. Therefore, the present writ petition is filed with the relief as stated supra.

3. Admittedly, as against the order of the original authority, the petitioner has preferred an appeal before the second respondent herein which is a statutory appeal contemplated under the Act. It appears that there was a delay in preferring the said appeal. It is also stated that the petitioner has sought for waiver of pre-deposit. It is needless to say that those applications have to be considered and decided on merits by the appellate authority. It is for the petitioner to approach the appellate authority also to seek for any interim relief. Admittedly the appeal has been preferred against the order passed by the original authority. However as in the mean time, the first respondent has passed the restrained order, it



is for the petitioner to urge before the appellate authority to take appeal and dispose of the same at an earlier date. Without doing so the present writ petition is filed.

4. Considering all these facts and circumstances, this Court is not inclined to interfere with the impugned order passed by the first respondent. However, as the appeal is pending before the second respondent of course with condone delay petition, I direct the second respondent to take up the above application and dispose of the same on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

5. It is made clear that this Court is not expressing any view on the merits and contentions raised by the petitioner in respect of the liability fixed on him by the original authority.

6. With the aforesaid directions, the writ petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(T & P)

/True Copy/

Sub Assistant Registrar

To

1. The Recovery Officer,
Office of the Recovery Officer,
Employees Provident Fund Organisation,
Regional Office,
Lady Doak College Road,
Chokkikulam,
Madurai.
2. The Employees Provident Fund Appellate Tribunal,
Laxmi Nagar,
New Delhi 110092.

+1cc to Mr. R.Devaraj, Advocate Sr.No.6078

akv

AA/03.03.2015/3p- 4c/

W.P. (MD) No.1377 of 2015
09.02.2015