

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.02.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.555 of 2016

and

W.M.P.Nos.404 and 405 of 2016

IFIN Commodities Ltd., (ICOM)
rep. by its Director,
Mrs.S.Usha.

...Petitioner

Vs.

1. The Assistant Provident Fund Commissioner (C& R)
Employees Provident Fund Organization,
Sub Regional Office, Bharishyanidhibhavan,
P.B.No.1806, Eranhipalayam Post Office,
Calicut- 673006.

2. The HDFC Bank,
rep. by its Branch Manager,
Anna Salai Branch,
759, ITC Centre Anna Salai,
Opp. T..V.S. Chennai - 600 002.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, to call for records of the attachment order, dated 23.11.2015, under Section 8 (F) of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, issued by the first respondent to the second respondent against the petitioner, bearing Reference No.KR/KKD/ENF-5(5)/2015-8361 and all its consequential proceedings and to quash the same as null and void.

For Petitioner : Mr.Alagu Narayanan for
M/s.RRN Legal Associates

For Respondent-1 : Mr.A.P.Suryaprakash
Standing Counsel

O R D E R

The petitioner seeks for issuance of a Writ of Certiorari, to quash the order of attachment, dated 23.11.2015, passed by the first respondent, under Section 8 (F) of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952.

2. The learned Standing Counsel appearing for the first respondent submitted that, pursuant to the impugned order of attachment, dues have already been recovered from the petitioner-Bank, and the first respondent has received the amount of Rs.2,56,627/-, and therefore, it is submitted that the challenge to the impugned order of attachment itself, has become infructuous.

3. Though the challenge to the impugned proceedings has become infructuous, yet, the Authority, viz., the first respondent-Organisation, should consider the petitioner's objection/explanation, dated 21.12.2015, as in the said objection, the petitioner-Bank has stated that they are not legally liable to make good any amount, payable by IFCI Ltd., to the first respondent/Organization, and the legal liability cannot be fastened on the petitioner-Bank. However, this objection/explanation, dated 21.12.2015, is now pending consideration of the first respondent.

4. The learned Standing Counsel for the first respondent-Organization submitted that the first respondent may be directed to consider the objection/representation of the petitioner on merits and in accordance with law.

5. In the light of the above, there will be a direction to the first respondent to consider the petitioner's objection/representation and afford an opportunity of personal hearing to the petitioner-Bank through its authorized Representative and pass orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. It is made clear that the recovery effected against the petitioner-Bank, pursuant to the order of attachment, shall be subject to the orders that may be passed by the first respondent in terms of the above direction. The petitioner is also directed to forward the copy of the objection along with the copy of this order, so as to enable the first respondent-Organization for complying with the direction issued by this Court.

6. In the result, the Writ Petition is disposed of, with the above observations. No costs. Consequently, connected W.M.Ps are closed.

sd

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Assistant Provident Fund Commissioner (C& R)
Employees Provident Fund Organization,
Sub Regional Office, Bharishyanidhibhavan,
P.B.No.1806, Eranhpalayam Post Office,
Calicut- 673006.
 2. The HDFC Bank,
rep. by its Branch Manager,
Anna Salai Branch,
759, ITC Centre Anna Salai,
Opp. T..V.S. Chennai - 600 002.
- + 1 cc to Mr.A.P.Suryaprakasam, Advocate Sr 6727
- + 1 cc to M/s.RRN Legal Associates, Advocate Sr 6458

KR/5/2/16

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