

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.10.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.20249 of 2014
and
M.P.Nos.1 & 2 of 2014

Karaikal Municipality,
Rep.by its Commissioner,
Nehru Street,
Karaikal - 609 602.

... Petitioner

Vs.

1.The Union of India,
rep.by its Secretary to Government,
Ministry of Labour & Employment,
Government of India,
Shram Shakthi Bhawan,
Rafimarg, New Delhi - 110 001.

2.The Employees' Provident Fund Organisation,
rep.by its Asst. Provident Fund Commissioner (Comp),
Sub-Regional Office,
No.101, 100 Feet Road,
Mudaliarpatt P.O., Puducherry - 605 004.

3.State Bank of India,
rep.by its Branch Manager,
Bharathiyar Road,
Karaikal - 609 602.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Prohibitory Order bearing No.TN/TBM/SRO-PCY/2155/Comp/2014, dated 26.06.2014 on the file of the 2nd respondent and quash the same and consequently, forbearing the 2nd respondent from proceeding with and pass any orders in the proceedings initiated by it U/s.7-A of the Employees' Provident Fund & Miscellaneous Provisions Act, 1952 against the Petitioner till the disposal of its Application U/s.16(2) of the said Act, dt. 15.07.2014 by the 1st respondent.

For Petitioner : Mr.T.P.Manoharan
Senior Counsel
for K.P.Jotheeswaran

For Respondents : Mr.Sathyanarayana prasad
Standing Counsel

O R D E R

The relief sought for in this Writ Petition is to quash the Prohibitory Order bearing No.TN/TBM/SRO-PCY/2155/Comp/2014, dated 26.06.2014 on the file of the 2nd respondent and consequently, forbear the 2nd respondent from proceeding with and pass any orders in the proceedings initiated U/s.7-A of the Employees' Provident Fund & Miscellaneous Provisions Act, 1952 against the Petitioner till the disposal of its Application U/s.16(2) of the said Act, dt. 15.07.2014 by the 1st respondent.

2.The learned Senior Counsel appearing on behalf of the writ petitioner made a submission that the Ministry of Labour & Employment, Social Security - II Section, New Delhi issued an order on 12.01.2015 rejecting the claim of the writ petitioner for grant of exemption from the provisions of the Act.

3.The learned Senior Counsel appearing on behalf of the petitioner, states that however in respect of the prohibitory order, the writ petition has to be adjudicated on merits.

4.Under these circumstances the learned Standing Counsel appearing for the respondents made a submission that the first claim of the writ petitioner in respect of grant of exemption under the provisions of the Act was rejected by the Ministry of Labour & Employment in proceeding dated 12.01.2015. In the very same order, paragraph No.7 states as follows :-

"7. As no response was received from the establishment by EPFO, the bank accounts maintained by M/S Karaikal Municipality were freezed by them and issued attachment order no 26.06.2014. However, consequent upon the appearance of the employer before Additional Provident Fund Commissioner, EPFO, the attachment order was revoked on 11.07.2014"

5.The fact regarding the order of revocation has also been stated in the counter filed by the 2nd respondent and paragraph 9 which is extracted hereunder :-

"9. I submit that as no response was received

from the Petitioner establishment for the above correspondences, the bank accounts maintained by M/s. Karaikal Municipality were freezed by issue of attachment order on 26.06.2014 under Section 7 A(2) read with Section 32 of the Code of Civil Procedure, 1908 for enforcing attendance of the petitioner to the inquiry and compelling him to produce complete records for determination of dues under the EPF & MP Act, 1952. However, consequent on the appearance of the employer before the Assistant Provident Fund Commissioner, the attachment order issued under Section 32 of CPC was revoked on 11.07.2014."

6.Thus, the Prohibitory Order which is challenged in this writ petition has been revoked and the claim regarding the exemption was also rejected by the Ministry of Labour & Employment. Thus, it is left open to the writ petitioner to participate in the enquiry in accordance with law and establish their defence before the competent authorities for getting any relief in this regard.

7.The 2nd respondent is directed to conduct enquiry in accordance with the Act and rules by providing all opportunities to the writ petitioner and take a decision on merits and in accordance with law.

8.With these observations this writ petition stands disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS V)

// True Copy//

सत्यमेव जयते
Sub Assistant Registrar

klr

To

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1.The Secretary to Government,
Ministry of Labour & Employment,
Government of India,
Shram Shakthi Bhawan,
Rafimarg, New Delhi - 110 001.

2.The Asst. Provident Fund Commissioner (Comp),
The Employees' Provident Fund Organisation,
Sub-Regional Office,
No.101, 100 Feet Road,
Mudaliarpur P.O., Puducherry - 605 004.

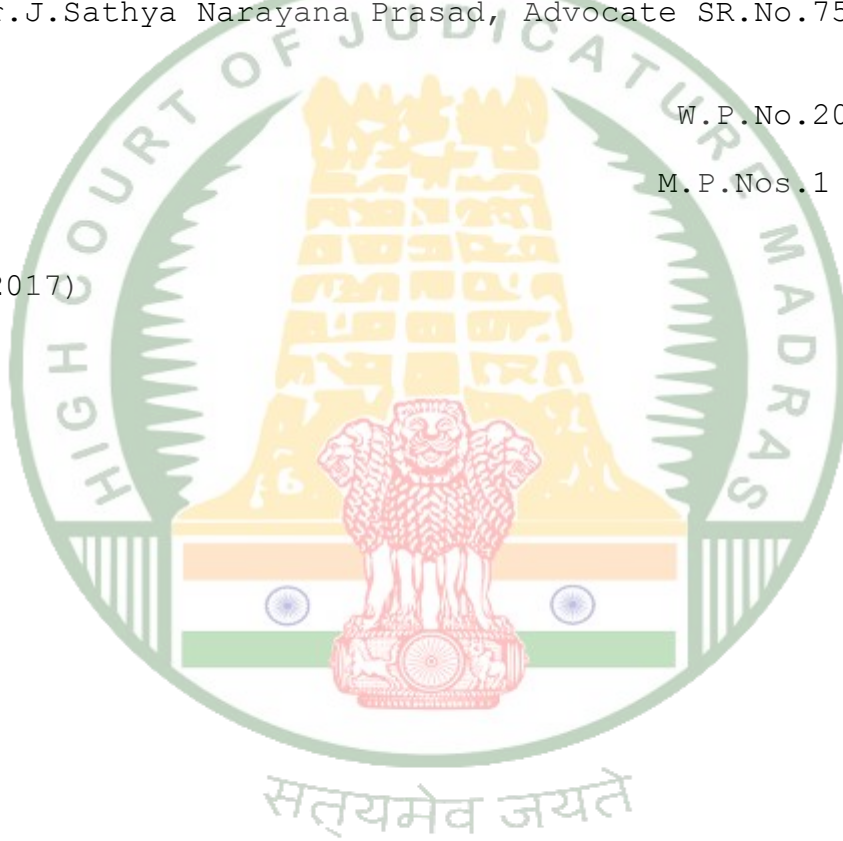
3.The Branch Manager,
State Bank of India,
Bharathiyar Road,
Karaikal - 609 602.

+1cc to Mr.K.P.Jotheswaran, Advocate SR.No.75423

+1cc to Mr.J.Sathya Narayana Prasad, Advocate SR.No.75140

W.P.No.20249 of 2014
and
M.P.Nos.1 & 2 of 2014

KGK(CO)
GN(24/11/2017)



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