

In the High Court of Judicature at Madras

Dated : 19.09.2017

Coram :

The Honourable Mr.Justice S.M.SUBRAMANIAM

W.P. No.24966 of 2017

&

W.M.P.Nos.26342 to 26344 of 2017

The Commissioner

Thiruvathipuram Municipality,

Thiruvathipuram - 604 407,

Tiruvannamalai District.

...Petitioner

Vs

1. The Secretary,
Department of Ministry of Labour &
Employment, New Delhi.
 2. The Central Provident Fund Commissioner,
Employees Provident Fund Organization,
Bhavishya Nadhi Bhawan,
14, Bhikaji Cama Place, New Delhi 110 066.
 3. The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub Regional Office, Sathuvachari ,
Vellore - 632 009.
 4. The Manager,
State Bank of India, Arcot Road,
Thiruvathipuram, Tiruvannamalai District
- ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the third respondent in No.TB/VLR/92216/Enf - IX/2016 dated 29.07.2016 and the consequential letter to the fourth respondent in TB/VLR/92216/RECY/2017/796 dated 19.06.2017, quash the same and forbear the respondents from in any manner seeking to fasten the liability under the impugned order dated 29.07.2016 for the alleged Employees Fund Dues of the contractors.

For Petitioner : Mr. P.Srinivas

For Respondents: Mrs.V.J.Latha,
Standing counsel for R2 and R3.

ORDER

The orders issued by the third respondent in proceedings dated 29.07.2016 and the fourth respondent dated 19.06.2017 are under challenge in this writ petition.

2. On a perusal of the order dated 29.07.2016, the Assistant Provident Fund Commissioner passed an order under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, fixing the liability of Rs.55,10,018/- and directed the writ petitioner to pay the same within a period of 15 days from the date of receipt of the order. However, the learned counsel appearing for the petitioner submits that the order dated 29.07.2016 was an ex-parte order and the same was not communicated to the petitioner Municipality. In this regard, the attention of the Court was drawn that the address stated in the order was erroneous and there is every reason to believe that the order dated 29.07.2016 was not communicated to the petitioner.

3. This apart, on a perusal of the order it is stated that none appears on behalf of the writ petitioner before the Assistant Provident Fund Commissioner and therefore it is preferable to remit the matter back for fresh consideration by providing opportunity to the writ petitioner. It is left open to the writ petitioner to submit their explanations/objections and other documents if necessary and produce the same before the Assistant Provident Fund and to participate in enquiry to be conducted in this regard afresh.

4. The writ petitioner is directed to submit their representation along with all the documents if necessary to the third respondent within a period of four weeks from the date of receipt of copy of this order and on receipt of the same, the third respondent is directed to consider the materials available on record and pass final orders on merits and in accordance with law, by conducting an enquiry. The writ petitioner is also directed to co-operate for the enquiry and participate in all the hearings without fail. Till the final orders are passed in this regard by the third respondent no coercive action shall be taken against the writ petitioner in relation to the impugned order dated 29.07.2016.

5. Accordingly, the order passed by the third respondent in proceedings TB/VLR/92216/ENF- IX/2016 dated 29.07.2016 is quashed and the matter is remitted back to the third respondent

for fresh consideration and disposal in accordance with law and on merits. The said exercise shall be completed within a period of three months from the date of receipt of copy of this order. The writ petition stands disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

sli

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Secretary,
Department of Ministry of Labour &
Employment, New Delhi.
2. The Central Provident Fund Commissioner,
Employees Provident Fund Organization,
Bhavishya Nadhi Bhawan,
14, Bhikaji Cama Place, New Delhi 110 066.
3. The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub Regional Office, Sathuvachari ,
Vellore - 632 009.

+1cc to M/s P.Srinivas, Advocate Sr.69359

+1cc to M/s V.J.Latha, Advocate Sr.68397

W.P. No.24966 of 2017

*** (CO)
RVR 13/10/2017

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