

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2017

CORAM

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

W.P.No.28471 of 2012
and
M.P.Nos.1 of 2012 & 1 of 2013

National Textile Corporation Ltd.,
Rep. by Chief General Manager
Southern Regional Office,
Coimbatore-641 009. ... Petitioner

vs.

The Recovery Officer,
Office of the Recovery Officer,
Employees Provident Fund Organization,
(Government of India, Ministry of Labour),
Regional Office,
Bhavishya Nidhi Bhavan,
P.B.No.3875,
Dr. Balasundaram Road,
Coimbatore -641 018. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records in respect of the impugned communications TN/CBE/RECOVERY/NTC/2012 dated 05.06.2012, 28.06.2012, 16.07.2012 and 04.10.2012 respectively sent by the respondent herein to the petitioner herein and quash.

For Petitioner : Mr.C.V.Vijayakumar

For Respondent : Mr.R.Meenakshi

O R D E R

The order issued by the respondents under the provisions of the Employees' Provident Fund and Miscellaneous Provident Act 1952, dated 05.06.2012, 28.06.2012, 16.07.2012 and 04.10.2012 are under challenge in this writ petition.

2. The writ petitioner is National Textile Corporation Limited, questioning the order of recovery imposed on the petitioner's Corporation and the consequential coercive actions initiated by the recovery officer are questioned in this writ petition. However, it is brought to the notice of this Court that the very same petitioner's Corporation, National Textile Corporation Limited, preferred Civil Appeal in C.A.No.8872 of 2010 before the Hon'ble Supreme Court of India.

3. In respect of the Mills in Maharashtra, the Hon'ble Supreme Court of India decided the entire issue in respect of the powers of the respondents for imposing recovery under the provisions of the Act. The relevant portion of the order of the Hon'ble Supreme Court is extracted here under:

"Mr.Sanchar Anand, learned counsel appearing for the Regional Provident Fund Commissioner, would submit that as far as the provident fund dues are concerned, the Corporation is entitled to pay under the 1995 Act. Certain authorities were cited before us and we have analysed the Act, but we refrain from entering into the same, inasmuch as the Minutes of the meeting have been drawn and money has been deposited, Therefore, the singular cavil exists and pertains to damages and grant of interest.

Regard being had to the various factors, including the financial health of the Corporation, which is imminently projected by Mr.Rana Mukherjee, learned senior counsel, we think it appropriate that the claim in this case should be restricted to the principal sum and the respondent No.1 is directed to disburse the said amount to the employee, who are entitled to get it. Needless to say, we have not delved into the legal issue that has arisen in these cases, The question of law is kept open."

4. In view of the judgment of the Hon'ble Supreme Court of India, in respect of the National Textile Corporation Limited, which is also the petitioner in the present writ petition.

5. Accordingly, this Court is not inclined to consider the issues raised by the writ petitioner, in respect of the recovery in view of the Judgment of the Hon'ble Supreme Court of India. Thus the liabilities are to be settled by the writ petitioner. Thus, no further adjudication needs to be undertaken in respect of the grounds raised in this writ petition.

6. Accordingly, the writ petition stands dismissed.

However, there is no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS V)

//True copy//

Sub Assistant Registrar

msrm

To

The Recovery Officer,
Office of the Recovery Officer,
Employees Provident Fund Organization,
(Government of India, Ministry of Labour),
Regional Office,
Bhavishya Nidhi Bhavan,
P.B.No.3875,
Dr. Balasundaram Road,
Coimbatore -641 018.

+1cc to Mr.C.V.Vijaya Kumar, Advocate SR.No.85033

+1cc to Mr.R.Menakshi, Advocate SR.No.85217

W.P.No.28471 of 2012

RJ (CO)
GN (29/12/2017)

सत्यमेव जयते

WEB COPY