



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) .No.5838 of 2017

and

W.M.P. (MD) .No.4619 of 2017

R 749 S.Kodikulam Primary Agricultural Co-operative Bank,
Now called as S.Kodikulam Primary
Agricultural Co-operative Credit Society,
Represented through its Secretary
S.Kodikulam Post,
Paramakudi Taluk,
Ramnad District.

...Petitioner

Vs.

1.The Assistant Provident Fund Commissioner,
Employees Provident Fund Regional Office,
Lady Doak College Road,
Chinna Chokkikulam,
Madurai- 2.

2.The Recovery Officer,
Officer of the EPF Organization,
Lady Doak College Road,
Chinna Chokkikulam, Madurai-2.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the records of the impugned orders passed by the 1st respondent made in No. MD/MDU/RO/RECY/24928/8F/2017 dated 13.03.2017 and quash the same and direct the 1st respondent to serve the orders U/s.14B in MD/MDU/24928 on the basis of representation dated 11.03.2017.

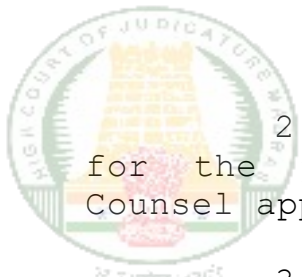
For Petitioner : Mr.C.G.Pethanaraj

For Respondents : Mr.K.Murali Sankar

Standing Counsel for EPF

O R D E R

This Writ Petition has been filed seeking to quash the order, dated 13.03.2017, passed by the first respondent, directing the petitioner Bank to pay the amount, which is recoverable from the Bank towards dues under Sections 14(B) and 7(Q) of Employees' Provident Funds and Miscellaneous Provisions Act, 1952.



2. Heard, Mr.C.G.Pethanaraj, learned Counsel appearing for the petitioner and Mr.K.Murali Sankar, learned standing Counsel appearing for the respondents.

3.The petitioner is a Co-operative society. Admittedly, the petitioner Bank has suffered an order under Sections 14(B) and 7(Q) of the EPF Act, for recovery of a sum of Rs.3,45,466/- (Three lakhs Forty Five Thousand Four Hundred and Sixty Six only) towards damages payable for the non-payment of dues in time and for the dues towards interest.

4.The petitioner's case is that the petitioner was facing financial crunch, during the last twenty years and that the cumulative loss of the petitioner was above 58 lakhs. It was only on account of the huge loss, the petitioner could not pay the contribution for a period from February 1999 to September 2009.

5.The specific case of the petitioner is that no order directing the payment under Sections 14(B) and 7(Q) of the EPF Act, was communicated to the petitioner and that therefore, the petitioner did not challenge the order, by which the petitioner was directed to make huge payments. It was further stated that the impugned order directing attachment of the amount that was standing to the credit of the petitioner in the Bank cannot be passed even without giving an opportunity to the petitioner to challenge the order, by serving a copy.

6.This Court is not impressed by the arguments of the learned Counsel for the petitioner. As regards the merits of the case, it is on account of non-payment of dues for a period of more than 10 years, order has been passed for recovery of dues by invoking the power under Sections 14(B) and 7(Q) of the EPF Act.

7.It is brought to the notice of this Court by the learned standing counsel for the respondents, that the order passed earlier was communicated to the petitioner bank and the petitioner had acknowledged the receipt of the proceedings issued under Section 8(F) of Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Even the earlier order dated 16.04.2015, directing the petitioner to pay the damages under Section 14(B), and to pay interest under Section 7(Q) of the Act, was communicated to the petitioner by registered post. Above all, the certificates issued by the authorised officer of the respondents for recovery of a sum of Rs.3,45,466/- (Rupees Three lakhs Forty Five Thousand Four Hundred and Sixty Six only), dated 02.06.2016, was acknowledged by the petitioner. In these circumstances, the Writ Petition challenging the consequential orders directing the petitioner Bank to disburse the amount exercising power under Section 8(F) (3) (iv) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, and Section 8(F) (3) 11(2) of the said Act, cannot be found fault with.



8.The learned standing counsel for the respondents further pointed out that the amount due from the petitioner is recovered through the Bank and hence the Writ Petition has become infructuous. This Court is not inclined to dispose of the Writ Petition as infructuous. However taking into account, the conduct of the Writ Petitioner in not challenging the order passed under Sections 14(B) and 7(Q) of the EPF Act, for this length of time and the fact that this Writ Petition is filed, only to challenge the consequential orders, this Court find no merit in the Writ Petition. The petitioner's contention that the petitioner was not served with the order passed under Sections 14(B) and 7(Q) of the EPF Act, is contrary to facts and records.

9.This Writ Petition is therefore dismissed. Consequently, the connected W.M.P.(MD) No.4619 of 2017 is closed. No Costs.

Sd/-
Assistant Registrar(CS-III)

/ True Copy /

Sub Assistant Registrar(C.S.)

To

1.The Assistant Provident Fund Commissioner,
Employees Provident Fund Regional Office,
Lady Doak College Road, Chinna Chokkikulam, Madurai- 2.

2.The Recovery Officer,
Officer of the EPF Organization,
Lady Doak College Road,
Chinna Chokkikulam, Madurai-2.

+1cc to M/S.K.MURALISANKAR, Advocate SR.No.58194

+1cc to M/S.R.SARAVANAN, Advocate SR.No.58193

ta/smr

MAS/SV-MMS/SAR 1/20.06.2017/3P/5C

ORDER MADE IN
W.P.(MD) .No.5838 of 2017
and
W.M.P.(MD) .No.4619 of 2017
02.06.2017