

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2018

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.32596 of 2018

&

W.M.P. Nos.37797, 37799 & 37800 of 2018

M/s. R.K. Cleaners & Caterers

Rep. by its Proprietor, Mr. B. Rajinikanth,
No.87, South Mada Street, Thiruvattiyur,
Chennai - 600 019.

...Petitioner

-Vs-

1.The Assistant Provident Commissioner,
Employees' Provident Fund Organisation,
No.37, Royapettah High Road,
Chennai - 600 014.

2.Enforcement Officer,
Employees' Provident Fund Organisation,
No.37, Royapettah High Road,
Chennai - 600 014.

3.Recovery Officer
Regional Office,
Employees' Provident Fund Organisation,
No.37, Royapettah High Road,
Chennai - 600 014.

4.The Managing Director,
TNSC Bank Ltd.,
233, NSC Bose Road,
Chennai - 600 001.

5. The Managing Director,
Axis Bank,
Thiruvattiyur Branch,
Thiruvottiyur High Road,
Chennai - 600 019.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari in the nature of writ to call for records of the order of the 1st respondent dated 18.12.2017 bearing number CHN-1/Div(13)/TN/52088/Enf/Regl/2017-18, demanding an amount of Rs.11,27,690/- towards EPF contributions for the period between 03/2012 and 04/2014 the notice of demand of the 3rd respondent dated 17.05.2018 bearing number TN/CHN/52088/Recovery /DN13/Regl/2018 and show cause notice of the 3rd respondent dated 16.07.2018 bearing number REF No.CHN/Recy/TN/52088/Regl/2018.

For Petitioner : Mr. T. Mohan
For M/s.P. Munusami

For Respondents
No.1 to 3: Mr.T.R. Sundaram
(Standing Counsel for EPF)

O R D E R

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari in the nature of writ to call for records of the order of the 1st respondent dated 18.12.2017 bearing number CHN-1/Div(13)/TN/52088/Enf/Regl/2017-18, demanding an amount of Rs.11,27,690/- towards EPF contributions for the period between 03/2012 and 04/2014 the notice of demand of the 3rd respondent dated 17.05.2018 bearing number N/CHN/52088/Recovery /DN13/Regl/2018 and show cause notice of the 3rd respondent dated 16.07.2018 bearing number REF No.CHN/Recy/TN/52088/Regl/2018.

2. Heard the elaborate arguments of Mr.T. Mohan, learned counsel appearing for the petitioner and Mr.T.R. Sundaram, learned Standing Counsel for the EPF Department.

3. According to the learned standing Counsel for the EPF, the authority, i.e., the first respondent has passed the present order purporting to exercise its power under Section 7A of the EPF Act, 1952. As to whether the petitioner is liable to pay EPF contribution for engaging 60 attendees on behalf of the 4th respondent will have to be established either before the authority while exercising power under Section 7A or by making a reference to the Regional Provident Fund Commissioner in terms of the PF Scheme or if any mistake is committed, by filing a review application before the same authority under Section 7B. In the absence of the petitioner falling in any one of the proceedings, a remedy has been given by way of an appeal under Section 7-I of the EPF Act to the Employees Provident Fund

Appellate Tribunal. The petitioner cannot bye-pass that remedy and approach this court under Article 226 of the Constitution.

4. In view of the above, this Court has directed the petitioner to approach the appellate authority to file appeal under Section 7-I of the EPF Act, 1952 to the Employees Provident Fund Appellate Tribunal seeking remedy within a period of three weeks from the date of receipt of a copy of this order.

Accordingly, the writ petition is disposed of with the above direction. There shall be no order as to costs. Consequently connected miscellaneous petition stands closed.

lbm

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Copy To:

1. The Assistant Provident Commissioner,
Employees' Provident Fund Organisation,
No.37, Royapettah High Road,
Chennai - 600 014.
2. The Enforcement Officer,
Employees' Provident Fund Organisation,
No.37, Royapettah High Road,
Chennai - 600 014.
3. The Recovery Officer
Regional Office,
Employees' Provident Fund Organisation,
No.37, Royapettah High Road,
Chennai - 600 014.

+2cc to M/s.T.R.Sundaram, Advocate, S.R.No.84909

+2cc to M/s.P.Munusami, Advocate, S.R.No.84929

W.P.No.32596 of 2018
and

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BR(CO)

KAK(21/02/2019)