



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 06.03.2018

CORAM

WEB COPY

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI**

W.A. (MD).No.311 of 2018 and
C.M.P. (MD).No.1949 of 2018

Tamil Nadu State Marketing Corporation Ltd.,
Thanjavur District,
Rep by its District Manager,
No.51-59, TANSIDCO Complex,
Nanjikottai Road,
Thanjavur.

.. Appellant /Petitioner

Vs .

1. The Assistant Provident Fund Commissioner,
Employee's Provident Fund Organisation,
Regional Office,
P.B.No.588, Sre Complex, 'D' Block,
No.18, Madurai Road, Trichy-620 008.
2. Sri Lakshmi Van Service,
Rep by S.Manoharan,
No.155-E, Santhapillai Gate,
Thanjavur.
3. Kallalagar Transport,
Rep by T.Saroja,
SIDCO-71, Nanjikottai Road,
Thanjavur.
4. Venkatesh Transport
Rep by R.Bose,
Villar Road, Thillai Road,
Thanjavur.
5. Selva Transport,
Rep by N.Subramanian
Uppanlarai Keelavulur Post,
Orathanadu, Thanjavur District.
6. City Transport,
Rep by M.Nanthakumar,
No.12, Kannan Nagar, Thanjavur.



7. Soundarya Agencies,
Rep by R.Kumaravel,
Ramanathan Hall,
No.1, Gandhiji Road,
Thanjavur.

8. A.R.R.Van Service,
Rep by G.Thiyagarajan
No.39, Ganapathi Nagar,
Medical College Road,
Thanjavur.

9. Annai Velankanni,
Rep by P.Anthoniraj,
No.3/12008-A, Annai Anjugam Nagar,
Chetty Madam, Kumbakonam.

... Respondents /Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.(MD).No.6223 of 2008 dated 07.10.2010.

Prayer in WP(MD)No.6223/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the 1st respondent dated 23/06/2008 in File No. D2/TN/TR/44220/SRO-TRY/2008-2009 and quash the same as ultra virus.

For Appellant :	Mr.H.Arumugam
For R1	: Mr.V.S.Karthi
For R4	: Mr.G.Karnan
For R8	: Mr.M.E.Ilango for M/s.Ajmal Associates
For R9	: Mr.M.Suresh Kumar

JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Mr.H.Arumugam, learned counsel appearing for the appellant, Mr.V.S.Karthi, learned counsel appearing for the first respondent, Mr.G.Karnan, learned counsel appearing for the 4th respondent, Mr.M.E.Ilango, learned counsel appearing for the 8th respondent and Mr.M.Suresh Kumar, learned counsel appearing for the 9th respondent.

2.This appeal by the Tamil Nadu State Marketing Corporation Ltd., is directed against the order in W.P.(MD).No.6223 of 2008, dated 07.10.2010. This appeal has been brought up for admission, after a period of more than 7 years and this would be a good ground to reject the appeal.



3. When we perused the order impugned, we find that the writ Court did not decide the right of the appellant, but directed the appellant to avail appellate remedy under Section 7-I before the Employees' Provident Fund Tribunal or seek for review of the order before the very same authority and only for such reason, the writ petition was dismissed, with liberty to pursue the other statutory remedies. We fail to understand as to how the appellant Corporation being a State owned Corporation, is aggrieved by the impugned order passed in the writ petition and strictly speaking the question of filing the writ appeal, against the order does not arise, as the appellant should have availed the alternative remedy under the Act.

4. The learned counsel for the appellant submitted that during the pendency of the proceedings, the amount has been recovered from the appellant Corporation by the respondent Employees' Provident Fund Organization by way of attachment of their bank account. The learned counsel further submitted that the appellant is liable to pay Employees' Provident Fund contribution as the employees are employed by the Transport Contractor and even assuming that there is some liability, the Employees' Provident Fund Organization should be permitted to recover the same from the Contractor. However, in this appeal, we cannot express any opinion on the said submission except granting liberty to the appellant Corporation to work out their remedy in terms of the provisions of the Act.

5. In view of the above reasons, we dismiss the writ appeal. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The Assistant Provident Fund Commissioner,
Employee's Provident Fund Organisation,
Regional Office,
P.B.No.588, Sre Complex, 'D' Block,
No.18, Madurai Road, Trichy-620 008.

+ 1 CC TO Mr.V.S.KARTHI, ADVOCATE IN SR No. 53152
+ 1 CC TO Mr.H.ARUMUGAM, ADVOCATE IN SR No. 53467
+ 1 CC TO Mr.G.KARNAN, ADVOCATE IN SR No. 53509
+ 1 CC TO M/s.AJMAL ASSOCIATES, IN SR No. 53506

NS

TE/SKN-RSK/SAR-1 : 28/03/2018 : 3P/6C
<https://hcservices.ecourts.gov.in/hcservices/>

W.A.(MD).No.311 of 2018 and
C.M.P.(MD).No.1949 of 2018
06.03.2018