



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:08.02.2018
CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

W.P. (MD) No. 20803 of 2017
and
W.M.P. (MD). No. 17088 of 2017

M.Girilal .. Petitioner
Vs.

1.The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Sub Regional Officer, 66 Water Tank Road,
Nagercoil - 629 001.

2.R.Ratheesh Kumar

3.Prince, K.L. .. Respondents

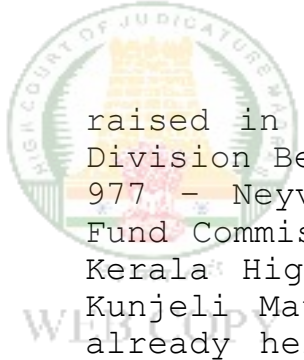
PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for records on the file of the first respondent, the Assistant Provident Fund Commissioner, Nagercoil, in Order No.TN/NGL/55083/7Q/173/PDC/2017, dated 27.07.2017 and quash the same.

For petitioner : Mr. M/Sudalaimuthu
for M/s.M.Azeem
For R-1 : Mr. K.Murali Shankar

O R D E R

Heard the learned Counsel on either side.

2. The petitioner questions the impugned order passed under Section 7Q of Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinunder as 'the Act'). The petitioner had leased out his establishment in favour of one Varas Cashews Company. The said lessee committed default in the matter of remittance of contribution under Section 7A of the Act. Therefore, after giving notification to the said lessee, an order under Section 7A of the Act was passed on 28.09.2010. It is also submitted that the said amount has been remitted by the lessee. But then the authority has chosen to passed an order under Section 7Q of the Act against the lessor also. When an order under Section 7A of the Act was not passed against the petitioner the question of passing an order under Section 7Q of the Act will not arise. That apart the dues under the statute arose after the date of transfer in favour of the lessee. It is only the lessee, who is squarely responsible. No liability can be fastened on the lessor for the dues of the lessee. The issue



raised in this writ petition is also no longer res integra. The Division Bench of this Court in the decision reported in 1998 2 LLJ 977 - Neyveli Lignite Corporation Limited vs. Regional Provident Fund Commissioner, Madras and another and the Division Bench of the Kerala High Court in the decision reported in 2017 4 LLN 208 - Kunjeli Mathew V. Enforcement Officer - Recovery, and others have already held that the lessee alone is liable for the due payable after the date of transfer. Therefore the order impugned in this writ petition is quashed.

3. This Writ petition is allowed accordingly. No costs. Consequently, W.M.P. (MD). No. 17088 of 2017 is closed.

Sd/-

Assistant Registrar(Crl. side)

/True Copy/

Sub Assistant Registrar

To

+1cc to M/S.M.Azeem, Advocate SR.No. 47536

+1cc to M/S.K.Murali Shankar, Advocate SR.No. 47385

ORDER MADE IN
W.P. (MD) .No.20803 of 2017
08.02.2018

kmi

JM/SV MMS/SAR 4/02.05.2018/2P/3C