

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

CORAM

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

W.P.No.30298 of 2013

and

M.P.No.1 of 2013

CVE Manpower Consultants,
No.16, Tambaram Road,
Sriperumbudur Taluk,
Kancheepuram - 603 105.

..Petitioner

Vs.

1.The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub Regional Office, Ambattur,
R-40, A-1, TNHB Shopping-cum-Office Complex,
Mugappair Road, Mogappair East,
Chennai - 600 037.

2.The Recovery Officer,
Employees Provident Fund Organisation,
Sub Regional Office, Ambattur,
R-40, A-1, TNHB Shopping-cum-Office Complex,
Mugappair Road, Mogappair East,
Chennai - 600 037.

3.SALCOMP Manufacturing India Private Limited,
Nokia Telecom SEZ
SIPCOT Industrial Park Phase III,
Chennai - Bangalore Highway,
Sriperumbudur - 602 105

..Respondents 1 to 3

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
calling for the records of the Second Respondent culminating
in the impugned Notice in TN/SRO/AMB/68899/SRRC/2013 dated
29.10.2013 and quash the same.

For Petitioner : Mr.Praveen S.Kumar
for Mr.V.Kuberan

For Respondents : Mr.J.Sathyanarayana Prasad,
for R1 & R2

Mr.Anand Gopalan
for M/s.T.S.Gopalan and Co. for R3

O R D E R

The show cause notice issued by the second respondent in proceedings dated 29.10.2013 is sought to be quashed in the present writ petition.

2.The writ petitioner states that they are engaged in providing utility services to various establishments, depending on their requirements. The petitioner claims that they are paying the salaries to the workmen and also paying the statutory dues, including the Provident Fund and ESI. Suddenly, the third respondent stopped making payments to the petitioner services and the petitioner was not in a position to meet out their commitments. Under those circumstances, the contributions were not paid and the petitioners have committed default. The respondents 1 and 2 initiated action and the second respondent issued a show cause notice as to why a warrant of arrest should not be issued. The impugned show cause notice reveals that the amount of arrears specified in the recovery certificate dated 12.08.2013 is for Rs.19,73,603. Under those circumstances, the show cause notice was issued for the appearance of the writ petitioner on 08.11.2013 at 11.30 a.m.

3.This Court is of the opinion that show cause notice is an opportunity provided to the writ petitioner to submit their explanations/objections with reference to the allegations set out in the show cause notice. A writ petition can be entertained against a show cause notice only on certain limited grounds. No writ petition can be entertained in a routine manner. Writ against a show cause notice would result if the notice was issued by an incompetent authority having no jurisdiction or if allegations of malafide are raised or if the same is in violation of the statutory rules. In case of malafide allegations, the authority against whom such an allegation is raised should be impleaded as party respondent in his personal capacity. In the absence of any legal grounds, no writ petition can be entertained against the show cause notice. The persons who have received such show cause notice from the competent authorities are bound to appear and submit their explanation/objections with reference to the objections set out in the show cause notice. Contrarily, a writ petition cannot be entertained and the process initiated cannot be kept in abeyance for an unspecified period, which would defeat the very object of the scheme itself.

4.A perusal of the impugned show cause notice reveals that the writ petitioner is a defaulter and action was initiated under the provisions of the EPF Act and recovery certificate was issued based on Section 7Q & Section 8C (1) of the Employees's Provident Funds and Miscellaneous Provisions Act, 1952 and the show cause notice was issued stating that why a warrant of arrest should not be issued.

5.Under these facts and circumstances, the writ petitioner is at liberty to approach the second respondent and submit their explanations/objections with reference to the allegations set out in the impugned show cause notice. The authorities are also bound to hear the writ petitioner and proceed by following the procedures contemplated. Accordingly, the writ petition is devoid of any merits and stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CJ Conf)

//True Copy//

Sub Assistant Registrar

tsg

To

- 1.The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub Regional Office, Ambattur,
R-40, A-1, TNHB Shopping-cum-Office Complex,
Mugappair Road, Mogappair East,
Chennai - 600 037.
- 2.The Recovery Officer,
Employees Provident Fund Organisation,
Sub Regional Office, Ambattur,
R-40, A-1, TNHB Shopping-cum-Office Complex,
Mugappair Road, Mogappair East,
Chennai - 600 037.

+1cc to Mr.J.Sathyanarayana Prasad, Advocate SR.96867

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VGII(CO)
CB(19/12/2019)

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