

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (L) No. 418 of 2011

National Textile Corporation Ltd. Through the officer on Special Duty,
BNC Mills, Rajnandgaon, Tahsil & District Rajnandgaon (CG).

---Petitioner(s)

Versus

Regional Provident Fund Commissioner & Recovery Officer, Indira Gandhi
Vyavsayik Parisar, Pandari, Raipur (CG).

---Respondents

For Petitioner	:	Shri Sudhir Verma, Advocate.
For Respondent	:	Shri Sunil Pillai, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04.12.2020

1. The present writ petition was filed challenging the recovery notice issued by the respondent dated 28.12.2010 (Annexure P/3).
2. A plain perusal of the impugned notice itself would reveal that the said notice has been issued after a formal proceedings under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (in short, the Act, 1952) was initiated against the petitioner establishment and there being an order passed, date of which is not reflected in the writ petition. It further appears that there was already a recovery proceedings drawn vide Annexure P/1 dated 05.05.1993 which was from the office of the respondent which was then located at Indore, Madhya Pradesh and the impugned notice Annexure P/3 now has been issued from the respondent office located in the State of Chhattisgarh.
3. On going through the pleadings and the documents it appears that the original order of assessment under the Act, 1952 has not been challenged by the petitioner and in the absence of any challenge to the said proceeding, challenging directly the recovery proceedings would not be sustainable at all. Against the original order of assessment under the Act,

1952, the petitioner had a remedy of preferring a review before the same authority or an appeal or even a writ petition. In addition, the petitioner also had a remedy of approaching the same authority invoking the provisions of Section 8-E of the Act, 1952. This again has not been availed. In the absence of either of the option being availed by the petitioner and also there being no challenge to the original order under the Act either before the High Court or before any other forum, the present writ petition questioning only recovery notice would not be sustainable.

4. In view of the same, the present writ petition being devoid of merit deserves to be and is hereby rejected. Though this court is rejecting this writ petition so far as recovery notice and recovery proceedings are concerned, the right of the petitioner stands reserved to avail appropriate remedies open, to challenge the original order, if it has not been done till now, and on a suitable explanation being provided by the petitioner, for the delay caused.
5. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge