

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. Nos. 24409 and 24410 of 2013
and
M.P. Nos. 1 and 1 of 2013

W.P. No. 24409 of 2013:-

The Managing Partner
TAFE Access Ltd
27-C, Race Course Road
Coimbatore - 641 018.

....Petitioner

-vs-

1. The Regional Provident Fund Commissioner
Employees Provident Fund Organisation
Regional Office
Bhavishya Nidhi Bhavan
Dr. Balasundaram Road
Coimbatore - 641 018.

2. The Assistant Provident Fund Commissioner
Employees' Provident Fund Organisation
Bhavishya Nidhi Bhavan
Dr. Balasundaram Road
Coimbatore - 641 018.
Tamil Nadu.

3. The Recovery Officer
Office of the Recovery Officer
Employees Provident Fund Organisation
Bhavishya Nidhi Bhavan
Dr. Balasundaram Road
Coimbatore - 641 018.

....Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the Order of the 2nd Respondent Ref. CB/CBE/45247/ENF/Circle - 17/RRC No./13000034/2013-14 dated Nil and quash the same.

W.P. No. 24410 of 2013:-

TAFE Access Ltd
27-C, Race Course Road
Coimbatore - 641 018

...Petitioner

-vs-

1. The Regional Provident Fund Commissioner
Employees Provident Fund Organisation
Bhavishya Nidhi Bhavan
Dr. Balasundaram Road
Coimbatore - 641 018.
2. The Assistant Provident Fund Commissioner
Employees' Provident Fund Organisation
Regional Officer,
Bhavishya Nidhi Bhavan
Dr. Balasundaram Road
Coimbatore - 641 018
Tamil Nadu.
3. The Recovery Officer
Office of the Recovery Officer
Employees Provident Fund Organisation
Bhavishya Nidhi Bhavan
Dr. Balasundaram Road
Coimbatore - 641 018
Tamil Nadu.

....Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the Order of the 3rd Respondent Ref. CB/CBE/45247/ENF/Circle - 17/RRC No./13000034/2013-14 dated 04.06.2013 and quash the same.

For Petitioner : Mr. Shivathanu Mohan
(in both W.P.s) for M/s. S. Ramasubramaniam Associates

For Respondents : Mr. J.Sathyannarayanaprasad,
Standing Counsel
(in both W.P.s)

O R D E R
(through video conference)

Heard Mr. Shivathanu Mohan, Learned Counsel for the Petitioner, and Mr. J.Sathyannarayanaprasad, Learned Standing Counsel appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner preferred an appeal under Section 7-I of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the 'Act' for short) before the Appellate Authority, viz., Employees' Provident Funds Appellate Tribunal, New Delhi, which had been taken on file as ATA No. 405 (13)2012 against the Order No. TN/CBE/45247/ ENF/CC-17/2012 dated 02.04.2012 passed by the Second Respondent under Section 7-A of the Act. According to the Petitioner, though that appeal was dismissed for non-prosecution on 20.02.2013, it was subsequently restored to file by order dated 06.03.2013, but the Respondents had issued impugned Order No. CB/CBE/45427/ENF/Circle-17/RRC No./13000034/2013-14 dated NIL and Order No. CB/CBE/45427/RECOVERY/Circle-17/RRC No./13000034/2013-14 dated 04.06.2013 for recovery of the amounts that is claimed as due. Aggrieved thereby, the Petitioner has filed these Writ Petitions challenging the said orders of recovery and this Court had passed interim order dated 02.09.2013 staying the same.

3. It is brought to notice that after the filing of the Writ Petition, the appeal in ATA No. 405(13)2012 on the file of the Employees' Provident Funds Appellate Tribunal had been transferred to the file of the Central Government Industrial Tribunal cum Labour Court, Chennai (hereinafter referred to as the 'Tribunal' for short) and taken on file as EPFA No. 139 of 2017 and is now pending.

4. Having regard to the aforesaid subsequent events, the Respondents shall await the orders to be passed by the Tribunal in EPFA No. 139 of 2017 and shall not take any coercive measures against the Petitioner for recovery of amount due, which is the subject of that appeal, till orders are passed therein. It is made clear that the Tribunal is not precluded from passing any orders, final or interim, requiring any further amount to be deposited that it may deem fit and proper in accordance with law following the prescribed procedure after hearing the concerned parties.

5. Accordingly, these Writ Petitions are disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dm/vjt

To

1. The Regional Provident Fund Commissioner
Employees Provident Fund Organisation
Regional Office
Bhavishya Nidhi Bhavan
Dr. Balasundaram Road
Coimbatore - 641 018.
2. The Assistant Provident Fund Commissioner
Employees' Provident Fund Organisation
Bhavishya Nidhi Bhavan
Dr. Balasundaram Road
Coimbatore - 641 018.
3. The Recovery Officer
Office of the Recovery Officer
Employees Provident Fund Organisation
Bhavishya Nidhi Bhavan
Dr. Balasundaram Road
Coimbatore - 641 018.

Copy to

The Presiding Officer,
Central Government Industrial Tribunal -cum- Labour Court,
1st Flor, B-wing,
26 Haddows Road,
Shastri Bhawan,
Chennai - 600 006.

+2ccs to M/s.S.Ramasubramaniam Associates, SR.No.31771 & 31772

W.P. Nos. 24409 and 24410 of 2013

LN(CO)
KKV/07/10/2020

WEB COPY