

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2020

CORAM

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

W.P. No. 17214 of 2018

and

W.M.P. Nos. 20488 of 2018 and 17688 of 2019

The Commissioner
Kancheepuram Municipality
Kancheepuram
Kancheepuram District. Petitioner

-vs-

1. The Secretary
Department of Ministry of Labour & Employment
New Delhi
2. The Central Provident Fund Commissioner
Employees' Provident Fund Organization
Bhavishya Nadhi Bhawan
14, Bhikaji Cama Place
New Delhi - 110 066.
3. The Assistant Provident Fund Commissioner
(Enforcement)
Employment Provident Fund Organization
Sub Regional Office
Sathuvachari
Vellore - 632 009. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Third Respondent in No.TN/VL/92215/Enf/2017-18 dated 21.06.2018 received by the Petitioner on 29.06.2018 dated 21.06.2018 received by the Petitioner on 29.06.2018, quash the same and consequently forbear the respondent from in any manner seeking to enforce the demand of the dues towards the Employees Provident Fund contributions from the Petitioner instead of the contractors from whom the same is due.

For Petitioner : Mr. P.Srinivas

For Respondents: R1 and R2 - Service Awaited
Ms. V.J.Latha (For R3)
Standing Counsel

O R D E R
(through video conference)

Heard Mr. P.Srinivas, Learned Counsel for the Petitioner and Ms. V.J.Latha, Learned Standing Counsel appearing for the Third Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Third Respondent by Order No. TN/ VL/ 92215/ Enf/ 2017-18 dated 21.06.2018 had determined the contribution payable under Section 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act' for short) by the Petitioner, who received the copy of that order on 29.06.2018. The Petitioner was entitled to prefer appeal against that order under Section 7-I of the Act within a period of 60 days from the date of its receipt in terms of Rule 7(2) of the Employees' Provident Fund Appellate Tribunal (Procedure) Rules, 1997, before the Appellate Authority, who has been empowered to condone delay in filing such appeal for an extended period of 60 days, if sufficient cause for not preferring appeal within that period is made out. However, the Petitioner did not prefer any such appeal before the Appellate Authority, but has instead filed this Writ Petition on 09.07.2018 challenging the order passed by the Third Respondent.

3. It is submitted by the Learned Counsel for the Petitioner that the Appellate Authority was not functioning at the time of filing of this Writ Petition, but is now entertaining such appeals and seeks permission of this Court to withdraw the Writ Petition with liberty to file appeal before the Appellate Authority. He has filed a memo dated 14.08.2020 to that effect through e-mail, which is placed on record.

In the result, the Writ Petition is dismissed as withdrawn granting such liberty. It is made clear for the purpose of reckoning limitation for availing aforesaid remedy, the period from the date of filing of the Writ Petition, viz., 09.07.2018, till today, viz., 14.08.2020, shall be excluded. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

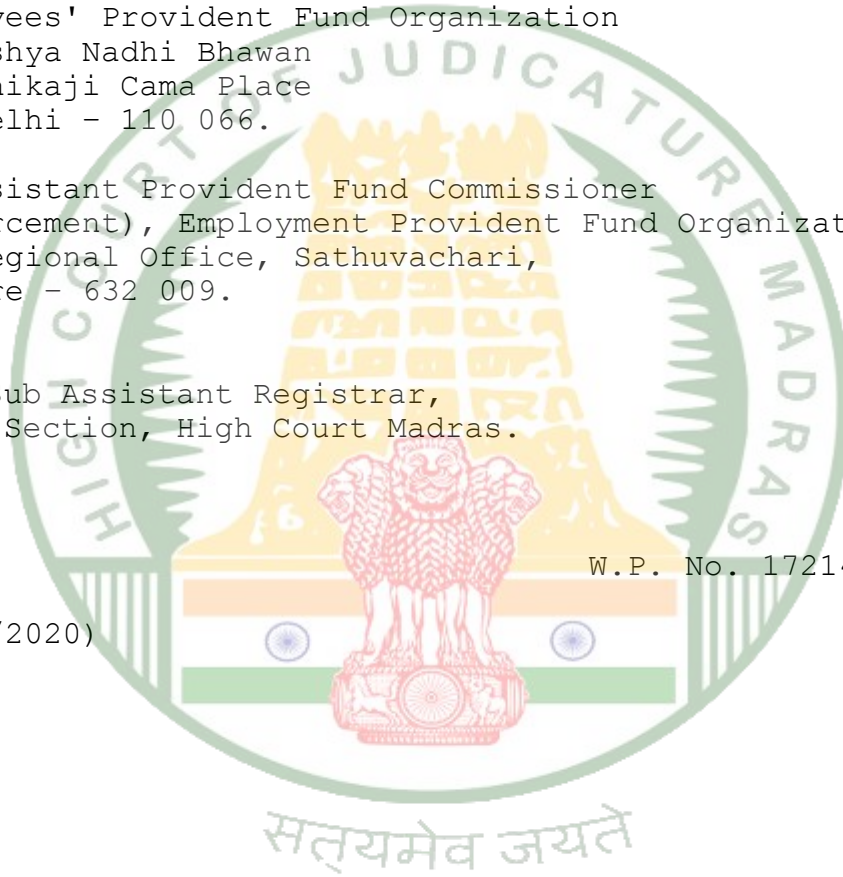
1. The Commissioner
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Kancheepuram, Kancheepuram District.
2. The Secretary
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New Delhi
3. The Central Provident Fund Commissioner
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The Sub Assistant Registrar,
Writ Section, High Court Madras.

NMI (CO)
RMP (31/08/2020)

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