



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P(MD)No.10680 of 2019

and

WMP(MD)Nos.8183 and 8184 of 2019

Madurai Meenakshi Solid Waste Clearing Agency,
rep.by its Managing Partner,
G.Ramamani

.. Petitioner

Vs.

1.The Commissioner,
Karaikudi Municipality,
Sivagangai District.

2.The Assistant Provident Fund Commissioner,
The Employees Provident Fund Organization,
No.1, Ladydoak College Road,
Bhavishya Nidhi Bhavan,
Chokkikulam, Madurai.

3.The Assistant Commissioner,
The Employees State Insurance Corporation,
4th Main Road, K.K.Nagar,
Madurai - 625 020.
(R2 & R3 impleaded vide orders dated
11.07.2019 & 22.08.2019)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the respondent dated 22.03.2019 in Na.Ka.No.6800/2016/H1 and consequential impugned order dated 28.03.2019 in Na.Ka.No.6800/2016/H1 and quash the same and consequently direct the respondent to release the retained amount which was retained in the name of Employees Provident Fund and Employees State Insurance by the respondent.

For Petitioner : Mr.AN.Ramanathan
For R1 : Mr.P.Mahendran
For R2 : Mr.V.S.V.Venkateswaran
For R3 : Mr.P.Ganapathisamy



ORDER

Challenging the impugned order of the first respondent dated 22.03.2019 in Na.Ka.No.6800/2016/H1 and the consequential order dated 28.03.2019 in Na.Ka.No.6800/2016/H1, this writ petition has been filed.

2.The petitioner company is engaged in the business of clearing solid waste and garbage in Karaikudi Town. The petitioner company claims that it enrolled its employees with the Provident Fund Organization and has been paying EPF and ESI contributions regularly. The petitioner is also a contractor for the Karaikudi Municipality, having declared to be the successful bidder for a period of one year from 06.01.2018. There are 133 number of workers employed by the petitioner company for collection of waste and other allied works as per the contract. While so, the first respondent had issued the impugned proceedings in Na.Ka.No.6800/2016/H1 contending that a lesser amount was paid towards contribution of EPF and ESI for the months of January and February, 2019 and withheld a sum of Rs.3,77,038/-. The said sum was arrived at by the first respondent by calculating Rs.293/- as daily wages of each of the employee. The said order is put to challenge in this writ petition.

3.As the EPF Organisation and ESI Corporation are necessary, they were subsequently impleaded as respondents 2 and 3 in this writ petition. Upon notice to them, the second respondent/EPF Organization produced a letter dated 11.10.2019 that there is 'no due' from the petitioner and issued a 'no due' certificate also in this regard. Similarly, the third respondent who is the ESI Corporation has stated that a sum of Rs.29,910/- is payable for January, 2019 and Rs.30,143/- for February, 2019. It is further stated that the third respondent authorities have not issued any notice to the petitioner in this regard raising a demand. Therefore, the third respondent is directed to calculate if any contribution is not made by the petitioner as required by the statute and if any outstanding, it is open to raise a demand. The petitioner is also directed to comply with the statutory demand if any is there. Even without a demand being raised by the third respondent, the petitioner has rushed to this Court aggrieved by the impugned order, only because a sum of Rs.3,77,038/- is withheld by the first respondent for the above referred statutory contributions to be made by the petitioner. As the EPF and ESI are before this Court for the contribution, of which, the first respondent had issued the impugned notice, it is open to the second and third respondents to follow up the petitioner for the non payment of the statutory dues. As the concerned statutory authorities are put on notice, the first respondent is directed to release the sum withheld by him towards the said liability.



4.With the above directions, this writ petition is disposed of. No costs. Consequently, WMP(MD)Nos.8183 and 8184 of 2019 are closed.

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// True Copy //

Sd/-

Assistant Registrar

/ /2020

Sub Assistant Registrar(CS)

Mj

To

- 1.The Commissioner,
Karaikudi Municipality,
Sivagangai District.
- 2.The Assistant Provident Fund Commissioner,
The Employees Provident Fund Organization,
No.1, Ladydoak College Road,
Bhavishya Nidhi Bhavan,
Chokkikulam, Madurai.
- 3.The Assistant Commissioner,
The Employees State Insurance Corporation,
4th Main Road, K.K.Nagar,
Madurai - 625 020.

+2 CC to Mr.AN.RAMANATHAN, Advocate (SR-4371[F] dated 03/02/2020)
+1 CC to Mr.P.MAHENDRAN, Advocate (SR-4138[F] dated 31/01/2020)
+1 CC to Mr.P.GANAPATHISAMY, Advocate (SR-4057[F] dated 31/01/2020)

W.P (MD) No.10680 of 2019
30.01.2020

MK (03.02.2020) 3P 8C