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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM

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

W.P.NO.15151 OF 2013

AND

M.P.NO.1 OF 2013

The Liquidator,
Tamilnadu Cooperative Oilseeds
Growers Federation Ltd.,
55, Thiru-Vi-Ka Industrial Estate,
Ekkattuthangal,
Chennai - 600 097.

... Petitioner

.Vs.

1. The Assistant Provident Fund
Commissioner (C&R),
Employees Provident Fund Organisation,
Regional Office, Tambaram,
3, Rajaji Salai,
Chennai - 600 045.
2. The Commissioner of Civil Supplies,
Ezhilagam, Chepauk,
Chennai - 600 005.
3. The Principal Secretary to Government,
Co-operation Food and Consumer
Protection Department,
Chennai - 600 009.

... Respondents

(R3 impleaded as per order dated
18.06.2013 in M.P.No.2 of 2013
in W.P.No.15151 of 2013)

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the First Respondent relating to his order TB/TAM/RO/ENF/T-2/17312/2012 dated 09.05.2013 and quash the same.



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For Petitioner : Mr.P.Anbarasan

For Respondents : Mr.R.Vishnu (for R1)

Mr.C.Harsha Raj
Government Counsel
(for R2 and R3)

O R D E R

(Through Video Conference)

Heard Mr.P.Anbarasan, Learned Counsel for the Petitioner, Mr.R.Vishnu, Learned Counsel for the First Respondent and Mr.C.Harsha Raj, Learned Government Counsel for the Second and Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The First Respondent by an Order No. TB/TAM/RO/ENF/T-2/17312/2012 dated 09.05.2013 had determined the liability of M/s.Tamil Nadu Cooperative Oilseeds Growers' Federation Limited (hereinafter referred to as 'the establishment' for short) towards provident fund dues for the period from October 2012 to March 2013 under Section 7-A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the 'EPF Act' for short). The said order is assailed in this Writ Petition by the Petitioner, who is the liquidator of that establishment. According to the Petitioner, the establishment had been wound up under Section 137(2) of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as 'TNCS Act' for short) and the Petitioner has been appointed as liquidator under Section 138 of the TNCS Act by proceedings in R.C.No.227626/2001/H1-2 dated 22.12.2004 of the Commissioner of Agriculture/Registrar of Oilseeds Co-operative Societies, which has been published in the Official Gazette, and the employees of the establishment have been permanently absorbed in government service. In such circumstances, it is contended that the First Respondent cannot demand any provident fund dues from the establishment for the period after winding up. It has been further brought to notice that in respect of another order determining the liability of that establishment for provident fund dues for the period from June 2005 to September 2012, this Court by an order dated 29.11.2019 in W.P.No.2737 of 2013 filed by the Petitioner has quashed the same, and a copy of that order has been produced, which is placed on record.

3. Having regard to the aforesaid submissions made, it would necessarily follow that the impugned order which cannot be



sustained for the same reasons, is also quashed.

In fine, the Writ Petition is allowed. Consequently, the connected miscellaneous petition is closed. No costs.

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Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

dm

To

1. The Assistant Provident Fund
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Employees Provident Fund Organisation,
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3, Rajaji Salai,
Chennai - 600 045.
2. The Commissioner of Civil Supplies,
Ezhilagam, Chepauk,
Chennai - 600 005.
3. The Principal Secretary to Government,
Co-operation Food and Consumer
Protection Department,
Chennai - 600 009.

+lcc to Mr.P.Anbarasan, Advocate, S.R.No.54771
+lcc to Mr.K.Ramu, Advocate, S.R.No.55529

W.P.NO.15151 OF 2013

EV(CO)
PBS/09/11/2021