



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2021

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Crl.O.P.Nos:	26587 of 2016	26588 of 2016	26589 of 2016
Crl.M.P.Nos:	13327, 13328 of 2016 & 3838 of 2019	13329, 13330 of 2016 & 3843 of 2019	13331, 13332 of 2016 & 3840 of 2019

1.M/s. Marshall Sons and Company (Mfg) Ltd.,
No.33 & 34, Ambattur Industrial Estate,
Chennai - 600 058.

2.M.K. Bajoria

...Petitioners
[In all three Crl.O.Ps]

Versus

A.Gurusamy
Enforcement Officer,
Employees Provident Fund Organization,
Sub Account Office,
R-10, A-1, TNHB Shopping - Cum- Office Complex,
Mugappair Road,
Mugappair East,
Chennai - 600 037.

... Respondent
[In all three Crl.O.Ps]

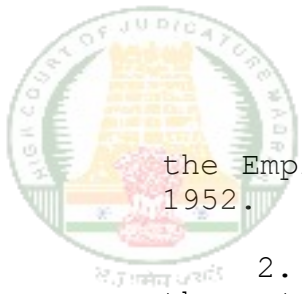
Common Prayer:

Criminal Original petitions filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the Criminal Case in C.C.Nos.394, 395 and 396 of 2007 respectively, on the file of the learned Judicial Magistrate, Ambattur and quash the same.

For Petitioners : Mr. N. Manokaran
For Respondent : Mr. J. Sathyanarayana Prasad
Standing Counsel for EPFO

COMMON ORDER

The second petitioner is the Managing Director of the first petitioner/company. The respondent/complainant has filed a private complaint in C.C.Nos.394 to 396 of 2007 respectively, on the file of the learned Judicial Magistrate, Ambattur against the petitioners for the alleged offence under Section 14 (1A) of



the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

2. The learned counsel for the petitioner would submit that the petitioners had failed to submit the returns to the Regional Provident Fund Commissioner, Sub Regional Office, Ambattur, within one month of the closure of every month. Therefore, the delay in filing the returns would attract the penal provision of Sections 14(2) and 14(A) of the EPF Act, 1952 r/w para no.76(b) of the Employees' Provident Funds Scheme, 1952. The factory was shut down in the month of September, 2003 due to severe unrest and several other factors. During that time, the respondent issued a notice of attachment dated 29.07.2003 for the arrears of P.F. dues amounting to Rs.17,06,080/- in respect of Certificate No.TN/SAO/AMB/4257/CC2(5)/2003, dated 09.04.2003 under Sec.7Q of the EPF Act, 1952. While so, the Regional Provident Fund Commissioner/Recovery Officer issued a fresh notice of demand dated 19.05.2005 inclusive of interest and penalty to the tune of Rs.40,24,619/- and it was followed by a proclamation of sale dated 16.11.2005. Again, the respondent has issued a prohibitory order dated 26.02.2016 under Section 8C (2) of the EPF Act, 1952 for the liability of Rs.1,02,08,968/-. He would further submit that the Assistant Commissioner, P.F.Office at Mogappair informed the 2nd petitioner that the dues to the workers had been disbursed even though the returns were not filed in time. He would further submit that the Authorized Officer under the P.F. Act, 1952 has issued the revised recovery certificate dated 17.11.2016 in respect of the 1st petitioner and the petitioners have settled the entire amount of Rs.12,61,147/- on 21.11.2016. Thereafter, the respondent has issued a communication dated 21.11.2016 to the effect that the 1st petitioner has "fully remitted" the dues assessed by the Authorized Officer under Sections 14B and 7Q of the Act. Accordingly, the Recovery Officer under the Act, has passed an order to "revoke the prohibitory order/lifted the attachment of the fixed deposits" on 21.11.2016. Accordingly, all the workers have been paid their dues pursuant to the award passed in C.P.No.421 of 2005 on the file of the Labour Court, Chennai.

3. The learned Counsel for the petitioner would further submit that the petitioners are not aware of the complaints filed by the respondent and they were not served with any summons in the said cases. He would further submit that the entire Provident Fund amount along with interest and damages had already been paid by the petitioners and the order of attachment effected by the authorities concerned and the same was also revoked.



4. By taking through communication dated 21.11.2016 of the Recovery officer of EPFO, the learned standing counsel appearing for the respondent/EPFO would submit that the dues to the tune of Rs.12,61,147/- dated 18.11.2016 bearing Cheque No.062601 under Section 14B and 7Q of the Act, 1952 pending from the Establishment of M/s.Marshall Sons and Co., (Manufacturing) Limited, have been fully recovered. Therefore, nothing survives for further adjudication in these petitions and further action has been dropped in C.C.Nos.394, 395 and 396 of 2007 respectively, on the file of the learned Judicial Magistrate, Ambattur.

5. In view of the above submission made by the learned standing Counsel appearing for the Employees' Provident Funds Organization, the prayer sought for by the petitioner in these petitions have now become infructuous, hence, the Criminal Original Petitions are closed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

msm

To

The Judicial Magistrate,
Ambattur.

+3ccs to M/s.N.Manokaran, Advocate Sr No.37834, 37835, 37836

Cr1.O.Ps.26587 to 26589 of 2016

SSV (CO)
PR (25/08/2021)