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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

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

W.P. No. 16672 of 2012

and

M.P. No.2 of 2012

M/s.Statesman Fashion Unit-I,  
No.6, JRM Complex, Perichipalayam,  
Dharapuram Road,  
Tirupur - 641 608  
represented by its Partners  
A.M.Karthikeyan

... Petitioner

-vs-

1. Employees' Provident Fund Organization,  
District Office,  
No.66, AP Layout, 1<sup>st</sup> Street,  
Near Post Office,  
Gandhinagar Post, Tirupur - 641 603,  
by its Enforcement Officer/  
Inspector of Provident Funds

2. State, represented by the  
Superintendent of Police,  
Angeripalayam Road,  
Tirupur - 641 603.

... 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 of the First Respondent, pertaining to the complaint to the Second Respondent in Lr.No.TN/TPR/TN/72642/Circle (2(22)/12 dated 27.03.2012 and quash the same by issuing Writ of Certiorari.

For Petitioner : Mr. M.Balasubramaniam

For First Respondent : Mr. J.Sathyanarayana Prasad

For Second Respondent : Mr.Harsha Raj,  
Counsel appearing for the Government



O R D E R  
(through video conference)

Heard Mr. M.Balasubramaniam, Learned Counsel for the Petitioner, Mr. J.Sathyanarayana Prasad, Learned Counsel appearing for the First Respondent and Mr. Harsha Raj, Learned Counsel representing the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The First Respondent had lodged a complaint by Letter No. TN/EO/ TPR/TN/72642/Circle 2(22)/12 dated 27.03.2012 to the Second Respondent stating that the Petitioner, who had deducted the contribution towards the provident fund dues from the salary of its employees for the period from September 2010 to February 2012 for the aggregate sum of Rs. 18,66,272/-, had not remitted the same to the First Respondent, and has sought for prosecution of the Petitioner under criminal law in that regard. The Petitioner has challenged the said letter in this Writ Petition.

3. At the time of admission on 02.07.2012, this Court has recorded the statement made on behalf of the Petitioner that the entire amount of contribution towards provident fund dues deducted from its employees would be paid within six weeks from that date.

4. Learned Counsel for the First Respondent submits that though the Petitioner has made partial payment after the filing of the Writ Petition, the entire amount of contribution towards provident fund dues deducted from the employees of the Petitioner from their salaries has not been remitted till date, despite the aforesaid undertaking made before this Court. The affidavit filed in support of the Writ Petition is also bereft of any details as to the reasons for the failure to remit the contributions towards provident fund dues deducted from the salaries of the employees of the Petitioner, which is prima facie cognizable as offences under Sections 405, 406 and 409 of the Indian Penal Code, 1860. Moreover, when the Petitioner has failed to perform its obligation as represented before this Court, there cannot be any equity in its favour. In such circumstances, the Petitioner is not entitled to any relief in the exercise of discretionary powers of this Court under Article 226 of the Constitution of India. Though this Court is not inclined to entertain this Writ Petition, it shall be incumbent upon the Second Respondent to examine the complaint of the First Respondent for prosecution of the Petitioner on merits and in accordance with law by following the prescribed procedure before taking any final decision in the matter, and it is made clear that no view has been expressed by this Court in that regard.



In the result, the Writ Petition is dismissed with the aforesaid clarifications. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Enforcement Officer/  
Inspector of Provident Funds  
Employees' Provident Fund Organization,  
District Office,  
No.66, AP Layout, 1<sup>st</sup> Street,  
Near Post Office,  
Gandhinagar Post, Tirupur - 641 603.
2. The Superintendent of Police,  
Angeripalayam Road,  
Tirupur - 641 603.

W.P. No. 16672 of 2012

PP(CO)  
HS(03/09/2021)