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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2021

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.6324 of 2020

and

W.M.P.Nos.7456, 7460 & 7463 of 2020

T.N.Prasad

...Petitioner

-Vs-

1.The Assistant Regional
Provident Fund Commissioner,
Employees Provident Fund Organization,
No.37, Royapettah High Road,
Chennai - 600 014.

2.M/s.Shriram SEPL Composites Pvt. Ltd.,
Sigappi Achi Building (4th Floor),
Door No.18/3, Rukmani
Lakshmipathi Road,
(Marshall Road), Egmore,
Chennai - 600 008.

3.M/s.Axis Bank Ltd.,
Rep. by its Manager - Mr.Balaji,
Radhakrishnan Salai,
Mylapore, Chennai - 600 004.

4.The Assistant Provident Fund
Commissioner,
Employees Provident Fund Organisation,
Regional Office,
Ambattur, Chennai 600 037.

(R4 impleaded vide order dated
01.08.2021 made in WMP.No.17868
of 2020 in WP.No.6324 of 2020)

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus calling for the records pertaining to the impugned notice dated 06.01.2020 bearing Ref.No.TNAMB / TNAMB0067165000 / 14 B / TNAMB16849 / A-9 on the file of the Fourth respondent and quash the same and direct them to consider the petitioner's reply dated 14.02.2020.(Prayer amended vide order dated 02.09.2021 made in WMP.No.17874/2020 in WP.No.6324/2020)



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For Petitioner : Mr.M.Aravind Subramanyam

For R1 : Mr.J.Sathyanarayana Prasad

For R3 : Mr.O.S.Karthikeyan

For R2 & R4 : No Appearance

ORDER

For the default committed by M/s Shriram SEPL Composites Pvt. Ltd. of the EPF dues during the period from April 2015 to May 2016, a lien has been created over the petitioner's personal bank account with the third respondent-Bank claiming him to be a director of the company.

2. The learned counsel for the petitioner had produced a copy of Form 32 of the Companies Act, 1956, which evidences that the petitioner herein had ceased to be the director of M/s.Shriram SEPL Composites Pvt. Ltd. from 12.04.2011 onwards.

3. Apparently, the petitioner herein was not the Director of the company for the default committed by M/s.Shriram SEPL Composites Pvt. Pvt. Ltd., during the period from April 2015 to May 2016. As such, there is absolutely no justification on the part of the Employees' Provident Fund Organization to have proceeded against the petitioner's personal savings bank account and created a lien over the same.

4. At this juncture, Mr.J.Sathyanarayana Prasad, learned Standing Counsel appearing for the first respondent would submit that they were not served with a copy of Form 32, which has been produced before this Court. The learned counsel for the petitioner is called upon to serve a copy of the Form 32 to the first respondent counsel forthwith.

5. In case, the EPF office finds that either Form 32, which has been produced before this Court, evidences that the petitioner has been retired from being a director with effect from 12.04.2011 or that he was a director during the default period between April 2015 and May 2016, they are at liberty to reopen the present writ petition. However, on a prima facie view on the contents of Form 32, the impugned order dated 06.01.2020 cannot be sustained.

6. For the reasons stated above, the impugned notice dated 06.01.2020 passed by the first respondent herein is quashed. Consequently, all further proceedings initiated by the respondents pursuant to the impugned notice dated 06.01.2020, including their instructions to the third respondent-Bank to freeze the personal bank account of the petitioner, shall stand



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rescinded. Accordingly, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IX)

// True Copy //

Sub Assistant Registrar

hvk/ata

To

1.The Assistant Regional
Provident Fund Commissioner,
Employees Provident Fund Organization,
No.37, Royapettah High Road,
Chennai - 600 014.

2.The Assistant Provident Fund
Commissioner,
Employees Provident Fund Organisation,
Regional Office,
Ambattur, Chennai 600 037.

+1CC to Mr.M.Aravind Subramaniam, Advocate, SR.No. 52650
+1CC to M/s.J.Sathya Narayana Prasad, Advocate, SR.No. 52916

W.P.No.6324 of 2020
and
W.M.P.Nos.7456,7460 & 7463 of 2020

RGN(CO)
B.VC (29/10/2021)