



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7750 of 2015 and
M.P.No. 1 of 2015

Sri Ranilakshmi Ginning Spinning & Weaving Mills Ltd.
S.F.No.403, Avinashi Road,
Arasur P.O. Coimbatore 641 407
rep by Managing Director P.Ponnusamy

... Petitioner

-vs-

1. Employees' Provident Fund Organisation
Regional Office, Bhavishya Nidhi Bhavan,
P.B.3875, Dr.Balasundaram Road,
Coimbatore 641 018.

2. The Recovery Officer,
Employees' Provident Fund Organisation
Regional Office, Bhavishya Nidhi Bhavan,
P.B.No.3875, Dr.Balasundaram Road,
Coimbatore 641 018.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to quash the show cause notice dated 10.02.2015 bearing No.TN/CBE/RECOVERY/3476/2015 and prohibiting the Respondents from proceeding any further with regard to the show cause notice that was issued by the second respondent after considering the legality or propriety thereof.

For Petitioner : Mr.Manohar Gupta
for M/s.Gupta and Ravi

For Respondents: Mr.C.Kulanthaivel (R1 & R2)

ORDER

This Writ Petition has been filed, challenging the show cause notice dated 10.02.2015 bearing No.TN/CBE/RECOVERY/3476/2015 and prohibiting the Respondents from proceeding any further with regard to the show cause notice that was issued by the second respondent after considering the legality or propriety thereof



2. According to the learned counsel for the Petitioner / Management, the decision with regard to payment of interest and damages have already been decided and that Employees Provident Fund Organisation is trying to impose twice the rate of interest and damages, which is not permissible as per rules.

3. A detailed counter has been filed, denying the averments made by the Management in the affidavit. It is stated that since the Management had not remitted the dues, a show cause notice was issued against them to show cause as to why a warrant of arrest should not be issued to them.

4. Heard both sides. Perused the records.

5. A cursory look at the notice dated 10.02.2015 reveals the fact that it is only the show cause notice and no decision has yet been arrived at. The Hon'ble Supreme Court in the case of Union of India and another vs. Kunisetty Satyanarayana, reported in (2007) 1 SCT 452, has been pleased to lay down as under:

"It is well settled by a series of decision of this Court that ordinarily no writ lies against a charge sheet or show cause notice vide Executive Engineer, Bihar State Housing Board vs. Ramdish Kumar Singh and others JT 1995 (8) SC 331, Special Director and another vs. Mohd. Ghulam Ghouse and another in 2004 (1) SCT671 (SC), Ulagaappa and others vs. Divisional Commissioner, Mysore and others (2001) 10 SCC 639, State of U.P. vs. Brahm Dutt Sharma and another in AIR 1987 SC 943 etc."

6. The Hon'ble Supreme Court in this very judgment held that in some very rare and exceptional cases, the High Court can quash the charge sheet or show cause notice, if it is found to be without jurisdiction, or for some other reason, if it is wholly illegal, though normally, the High Court should not interfere. In the absence of any such violation and infringement of rights, there is no scope for this Court to interfere with such show cause notice impugned in this writ petition.

7. In such view of the matter, without prejudice to the rights of the parties in this Writ Petition, the Management is expected to appear before the EPFO Authorities and submit a reply in detail including the one if any already submitted and produce the relevant records. In case EPFO is satisfied with the explanation, they can drop further proceeding and, if they are not satisfied, appropriate orders can be passed and they can proceed further, after the period of limitation prescribed under



the Employees Provident Fund Act, 1952, with regard to any coercive action.

8. With the above observation and direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To:

1. Employees' Provident Fund Organisation
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P.B.3875, Dr.Balasundaram Road,
Coimbatore 641 018.

2. The Recovery Officer,
Employees' Provident Fund Organisation
Regional Office, Bhavishya Nidhi Bhavan,
P.B.No.3875, Dr.Balasundaram Road,
Coimbatore 641 018.

+1cc to M/s.Gupta and Ravi, Advocate, S.R.No.34232
+1cc to the Government Pleader, S.R.No.34527

W.P.No.7750 of 2015

PA(CO)
SB(29/11/2021)