



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.568 of 2013

and

M.P(MD)Nos.1 of 2013

WEB COPY

1.The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Chockikulam,
Madurai,
Madurai District.

2.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional Office, Regional Office,
Madurai,
Madurai District.

...Appellants/Respondents 1 to 3

Vs.

1.Q-1283, Kidathiraukkai Primary Agriculture
Co-operative Bank,
Kidathirukkai Post,
Mudukulathur Taluk,
Ramanathapuram District,
Represented by its Secretary,
K.Muthuvelsamy

... Respondent/Writ Petitioner,

2.The Manager,
Ramnad District Central Co-operative Bank,
Mudukulathoor,
Ramanathapuram District.

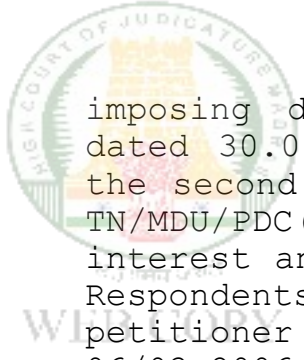
... Respondents / 4th respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 15.09.2011 passed in W.P(MD)No.3024 of 2010.

Prayer in WP(MD). 3024/ 2010 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court to issue a WRIT OF
CERTIORARIFIED MANDAMUS to call for the records from the file of the
second respondent herein in No. TN/29491/7Q/PDC/MDU/2009 dated
17.09.2009 claiming interest under sec. 7Q of EPF Act, 1952 and the
consequent orders passed under sec. 14-b of the EPF Act, 1952

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imposing damages in No. TN/RO/MDU/29491/RO/Circle 5/ PDC/LD/2009 dated 30.09.2009 signed on 07.10.2009 and the consequent order of the second respondent under Section 8F of the EPF Act, 1952 in No. TN/MDU/PDC(1)/8F 0789/2009 dated 29.10.2009 for the recovery of the interest and damages amount and to quash the same and to direct the Respondents 1 to 3 not to claim any interest and damages from the petitioner as the petitioner society filed joint application dated 06/03.2006 for the withdrawal of their society from the voluntary coverage of the E.P.F Act 1952, under Section 1(4) of the E.P.F Act.

For Appellants : Mr.K.Murali Sankar
 For R-1 : Mr.R.Saravanan
 For R-2 : Mr.D.Shanmugaraja Sethupathi

JUDGMENT

**(Judgment of the Court was delivered by
 PUSHPA SATHYANARAYANA, J.)**

The writ appeal is directed against the order dated 15.09.2011 passed in W.P(MD)No.3024 of 2010.

2. The Writ Petition was originally filed challenging the order passed under Section 7(Q) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, dated 17.09.2009, imposing damages for the delay in deposit of the contribution and also the executory order passed under Section 8(F) of the Act.

3. The writ petitioner/Bank had submitted voluntary coverage under Section 1(4) of the Act, which was accepted and the coverage was extended to the petitioner establishment with effect from 01.03.1994. The petitioner committed default in deposit of the contribution. Hence, recovery proceedings were initiated and interest was levied and the said order is under Challenge.

4. The writ petitioner had contended that they had opted out the coverage of the Act and that they are not liable to pay. However, once the establishment is covered under the Act, it cannot opt out the coverage. However, the writ petition was allowed by the learned Single Judge holding that once the writ petitioner prayed to withdraw from the provision of the Act and the respondents are bound to accept the request and any proceedings initiated after the request for the withdrawal are without jurisdiction. Aggrieved by the said order, the above writ appeal is filed.

5. When the matter was taken up for hearing today, the learned counsel appearing for the first respondent filed a memo stating as follows:

"MEMO FILED ON THE SIDE OF THE 1ST RESPONDENT

It is respectfully stated that the 1st respondent society has enrolled the membership in the EPF office and

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paid contributions to their employees till now pendency of the case.

Further, it respectfully stated that the 2nd respondent society is continuing the EPF scheme. To that effect this memo is filed before this Honourable Court."

WEB COPY

6. The learned counsel appearing for the appellants also consented to record the said memo and dismiss the appeal.

7. In view of the above, the writ appeal is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

TO

1.The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Chockikulam,
Madurai, Madurai District.

2.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional Office, Regional Office,
Madurai, Madurai District.

+1 CC to M/s.K.MURALI SANKAR, Advocate (SR-2989[F] dated 03/02/2021
+1 CC to M/s.R.SARAVANAN, Advocate (SR-2990[F] dated 03/02/2021)
+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-3226[F] dated 04/02/2021)

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ES (CO)

KB(23.02.2021) 3P 6C