



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.4329 of 2011

and

M.P (MD)No.1 of 2011

M/s.Alex Match Industries,
represented by its Partner,
S.M.Joseph Selvarathinam,
S/o.R.Sornamanickam,
No.1, Bharathi Nagar 2nd Street,
Kovilpatti,
Thoothukudi District.

... Petitioner

Vs.

1.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub-Regional Office, Tirunelveli.

2.The Recovery Officer,
Office of the Recovery Officer,
Employees Provident Fund Organization,
Sub-Regional Office,
Tirunelveli.

3.The Enforcement Officer,
Employees Provident Fund Organization,
District Office, Thoothukudi.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the second respondent in his proceedings in No.TN/TNY/20755/Recy/CD-II/T-21/2011 dated 30.03.2011 and quash the same and consequently direct the respondent organization not to claim any further dues from the petitioner after the payment of present dues.



For Petitioner : Mr.T.A.Ebenezer

For Respondents: Mr.K.Murali Sankar

Standing Counsel

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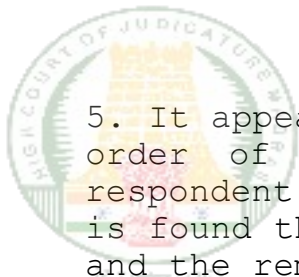
O R D E R

This writ petition has been filed challenging the proceedings of the second respondent, dated 30.03.2011 and to quash the same and consequently, direct the respondent organisation not to claim any further dues from the petitioner, after the payment of present dues.

2.The case of the petitioner is that the petitioner is the partner of the Alex Match Industries and the said Industry was closed on 09.02.2008, due to the economic crisis. The respondent organisation levied damages and interest under Section 14 B and 7 Q of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 to the tune of Rs.79,634/-. The said amount was remitted by the petitioner and the same was received by the third respondent on 23.01.2009, through Demand Draft. Thereafter, the petitioner has made a representation to the first respondent on 09.02.2009, requesting him to cancel the attachment clauses made in his house property at the office of Sub Registrar Office, Kovilpatti. However, the first respondent has issued the proceedings, demanding Rs.26,117/- for 14 B and Rs.8,495/- for 7Q and the same was received by the petitioner on 17.04.2009. Thereafter, the second respondent issued a notice for settling a sale proclamation, on 30.03.2011. Challenging the same, the present writ petition has been filed.

3.The learned counsel appearing for the petitioner would submit that while entertaining the writ petition, this Court, by order dated 11.04.2011, issued a direction to the petitioner to pay the entire amount demand within a period of two weeks. In compliance of the said order, the petitioner has paid the entire amount and complied with the interim order passed by this Court. Since the entire amount was repaid, the attachment made by the second respondent is liable to be set aside. Hence, he prayed for allowing of this writ petition.

4.The learned Standing counsel appearing for the respondents did not dispute the averments made by the learned counsel for the petitioner.



5. It appears that the entire demand was settled, as per the interim order of this Court, dated 11.04.2011. Thereafter, the second respondent has filed a calculation memo on 28.08.2017, in which, it is found that the petitioner totally remitted a sum of Rs.1,54,830/- and the remaining amount of Rs.31,715/- was not paid (Rs.4,000/- for arrears of damages and Rs.27,715/- for cost of recovery charges). This Court is unable to understand how the authority imposed the cost of recovery charges and the authority cannot impose the cost of recovery charges and they can very well collect the damages alone. Hence, imposing the amount under the head of cost of recovery is unreasonable one. Therefore, this Court directs the petitioner to pay a sum of Rs.4,000/- (Rupees Four Thousand only) by way of Demand Draft to the second respondent, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the second respondent Organisation is directed to remove the attachment and issue no due certificate to the petitioner. Accordingly, this Writ Petition is allowed with the aforesaid direction. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

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Sub Assistant Registrar(CS)

akv

To

1.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub-Regional Office, Tirunelveli.

2.The Recovery Officer,
Office of the Recovery Officer,
Employees Provident Fund Organization,
Sub-Regional Office,
Tirunelveli.

3.The Enforcement Officer,
Employees Provident Fund Organization,
District Office, Thoothukudi.

+1 CC to M/s.K.MURALISANKAR, Advocate (SR-14172[F] dated 29/03/2021)

+1 CC to M/s.T.A.EBENEZER, Advocate (SR-14255[F] dated 29/03/2021)

W.P. (MD)No.4329 of 2011

26.03.2021

GS (23.06.2021) 3P 6C

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