



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2021

CORAM:

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

W.P. (MD) No.7201 of 2011

and

M.P (MD) .Nos.1 of 2011 and 1 of 2013

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Sri Krishna Enterprises
137, East Masi Stree, (Upstairs)
Madurai-625 001
Madurai District,
Through its Proprietor,
T.Pandu Rengan

... Petitioner

Vs.

1.The Presiding Officer,
Employees' Provident Fund Appellate Tribunal,
Scope Minar, Core-II, 4th Floor,
Lakshmi Nagar District Centre
LakshmiNagar
Delhi-110 092 (East Delhi)

2.The Regional Provident Fund Commissioner,
Employees' Provident Fund Organization,
Regional Office - Lady Doak College Road,
Madurai-625 002
Madurai District.

... Respondents

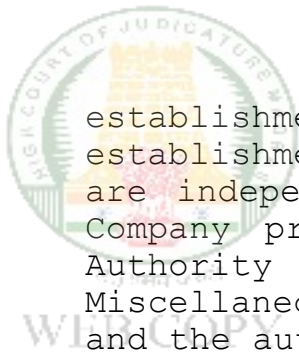
Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records on the file of the 1st respondent herein in ATA No.102(13)2002 and to quash the order dated 15.12.2010 passed therein.

For Petitioner	: Mr.P.Chandrabose
For R2	: Mr.V.S.V.Venkateshwaran
	Standing Counsel
For R1	: Court

O R D E R

This writ petition is filed challenging the order of the first respondent dated 15.12.2010 passed in ATA No.102(13)2002 and to quash the same.

2.The case of the petitioner is that the petitioner is a proprietary concern and engaged in the business of garments and cloth and the staff strength of the petitioner never reached 20. Hence, the EPF Authority under 7A proceedings clubbed the petitioner with Sri Ramakrishna Textiles, Shre Andavar Store, Sri Krishna Enterprises and Shre sree Ganesh Cloth Centre and covered the



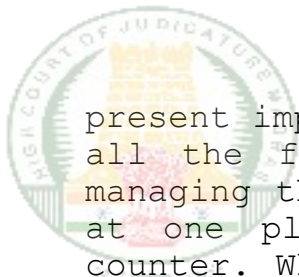
establishment as the staff strength of 04 units reached 20. All the establishments are separate and they are registered separately. They are independent and hence, they cannot be clubbed. The petitioner Company preferred an appeal against the order passed by the PF Authority under Section 7A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952(hereinafter referred as PF Act) and the authorities inspect the premises and arrived at a conclusion that all the establishments are run by one family and all the establishments are located at one place having a common telephone number and common cash counter and on the sole ground, passed 7A order by imposing the coverage of PF Act. Challenging the said order, the petitioner has filed an appeal before the Appellate Tribunal in ATA No.102(13)2002. The appellate authority dismissed the appeal on the ground that all the four units are run by one family, was managing the business of all and all the establishments are located at one place having a common telephone number and common cash counter. Further, four units have a common cash counter and on the sole ground the appeal was dismissed. However, the very same petitioner establishment filed another appeal in ATA No.103(13)2002 before the Appellate Tribunal, New Delhi, wherein, in paragraph No.8, it has been held that the petitioner herein is the appellant therein and the respondent Commissioner, who is the Investigating Authority in the present case, has not found out whether all the establishments are owned by one establishment. As per the impugned order, all the establishments are owned by independent and separate persons, on the sole ground the appeal filed by the petitioner was allowed. In view of the contrary decision taken by the Appellate Tribunal, the present writ petition is filed.

3.The learned counsel appearing for the petitioner submitted that in view of the contrary decision taken by the Appellate Tribunal, this Court may remand the matter back to the Tribunal for fresh consideration.

4.The learned Standing Counsel appearing for the second respondent submitted that admittedly, all the four units functioned in the same place by using common telephone number and common cash counter. Hence, the order of the Lower Appellate Authority cannot be interfered under Article 226 of the Constitution of India.

5.Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the second respondent and perused the materials available on record.

6.The facts in the present case are not in dispute. Admittedly, four proceedings were initiated against the petitioner and one of the proceedings ended against the petitioner in the present impugned order, whereas, since the other three proceedings were initiated, the petitioner has filed ATA Nos.103(13) 2002, 100(13) 2002 and 98 (13) 2002, wherein the Appellate Tribunal held in favour of the petitioner. The decision arrived by the authority in the



present impugned order as if the Authority's inspection reveals that all the four units run by one family and T.Balasubramanian was managing the business of all and all the establishments are located at one place having a common telephone number and common cash counter. Whereas, the other proceedings which were initiated before the Appellate Tribunal, dated 22.02.2013, filed by the very same petitioner unit, wherein, the Appellate Tribunal held in para 8 that the respondent Commissioner, who is the Investigating Authority in the present case, has not found out whether all the establishments are owned by one establishment. As per the impugned order, all the establishments are owned by independent and separate persons.

7.In view of the contrary view, this Court is inclined to set aside the order dated 15.12.2010 passed in ATA No.102(13)2002. Accordingly, the order dated 15.12.2010 is set aside and the matter is remanded back to the first respondent for fresh consideration. The first respondent is directed to consider the matter afresh, in the light of the order passed in ATA Nos.103(13)2002, 100(13) 2002 and 98(13) 2002, and pass appropriate orders on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order.

8.With the above direction, this Writ Petition is allowed. No costs Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

To

1.The Presiding Officer,
Employees' Provident Fund Appellate Tribunal,
Scope Minar, Core-II, 4th Floor,
Lakshmi Nagar District Centre
LakshmiNagar
Delhi-110 092(East Delhi)

+1 CC to M/s.P.CHANDRABOSE, Advocate (SR-5711[F] dated 17/02/2021)

W.P. (MD)No.7201 of 2016

16.02.2021

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