



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:21.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)Nos.8748 and 8859 of 2011

M/s.Azhagappa Spinning Mills(P) Ltd.,
Nagammai Nagar, Muthugudi
Rajapalayam-626 117
Virudhunagar District,
Rep by its Personnel Officer

Petitioner in both W.Ps
Vs.

1.The Presiding Officer,
Employees Provident Fund Appellate Tribunal
Core II, 4th Floor, Laxmi Nagar District Centre
Laxmi Nagar,
Delhi. 1st Respondent in WP(MD.8748/2011

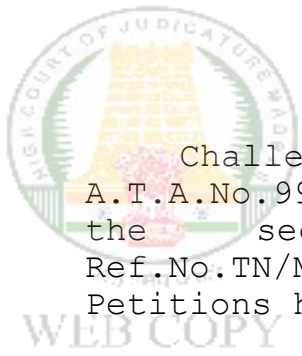
2.The Assistant Provident Fund Commissioner,
EPF Organization, Regional Office,
No.1, Lady Doak college Road,
Chokkikulam,
Madurai-625 002. 2nd Respondent in WP(MD).8748/2011 and
1st Respondent in WP(MD).8859/2011

3.The Recovery Officer,
EPF Organization, II LDC Road,
Chokkikulam,
Madurai-2 3rd Respondent in WP(MD).8748/2011 and
2nd Respondent in WP(MD).8859/2011

Prayer in W.P(MD)No.8748 of 2011: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the order dated 28.12.2010 passed by the 1st respondent in A.T.A.No.998/13/2005 and quash the same as illegal.

Prayer in W.P(MD)No.8859 of 2011: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the proclamation of sale order passed by the 2nd respondent in his proceedings in Ref.No.TN/MD/1125/Recy/R.O/2011, dated 25.07.2011 and quash the same as illegal.

For Petitioner : Mr.Manoharan
in both W.Ps for M/s.Niresh Kumar
For R1 and R2 : Mr.K.Muralishankar
in both W.Ps Standing Counsel



COMMON ORDER

Challenging the award passed by the first respondent, in A.T.A.No.998/13/2005 and the proclamation of sale order passed by the second respondent in his proceedings in Ref.No.TN/MD/1125/Recy/R.O/2011, dated 25.07.2011, these Writ Petitions have been filed.

2.Since the issues involved in these Writ Petitions are one and the same, both the writ petitions have been taken up together and disposed of by way of this common order.

3.The case of the petitioner is that the petitioner mill is an old Industrial Unit with conventional plants and machineries. Due to the financial crisis and frequent strikes by the workers, the production was suffered and caused heavy loss. While so, as per the order of this Court, the petitioner Mill was periodically paying EPF contribution to the authorities for the period from April 2001 to September 2001 by way of installment and the said order was complied with. However, the EPF Authority initiated the proceedings against the petitioner under Section 14B of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the 'Act') and passed an order of recovery to the tune of 13,72,551/- with interest and the total damages of Rs.34,68,600/-. Challenging the said order, the petitioner filed an appeal before the Appellate Tribunal, New Delhi, on various grounds. However, the Appellate Tribunal, while sitting in the Circuit Bench at Coimbatore, without giving any opportunity, disposed of the appeal and confirmed the order passed under Section 14(B) of the Act. Challenging the same, the petitioner has filed a writ petition before this Court in W.P(MD)No.8748 of 2011 and the same is pending. During the pendency of the said writ petition, the second respondent passed an order of proclamation of sale of immovable property of the Mill. Challenging the said order, the writ petition in W.P(MD). No.8859 of 2011 is filed.

4.The learned counsel appearing for the petitioner submitted that admittedly, at the relevant point of time, there is no Tribunal in South India and it is available only in New Delhi and a temporary Circuit Bench camp was conducted in Coimbatore. The appellate Tribunal, while sitting in the Circuit Bench at Coimbatore, without giving any opportunity, disposed of the appeal and confirmed the order passed under Section 14(B) of the Act. Further, the learned counsel submitted that this Court, while entertaining these writ petitions on 08.08.2011, granted an order of interim stay on condition that the petitioner should deposit a sum of Rs.10,00,000/-.

5.Further, the learned counsel for the petitioner submitted that, in order to show the bonafide of the petitioner, now the petitioner is ready and willing to deposit another sum of Rs.10,00,000/- (Rupees Ten Lakhs only) and hence, he prayed that the



matter may be remanded back to the Appellate Authority situated in Central Government Industrial Tribunal, Sastry Bhavan, Chennai, for fresh consideration.

6.The learned Standing Counsel appearing for the respondents 1 and 2 has no serious objection for remanding the matter back to the appellate authority.

7.Considering the submissions made on either side, the matters are remanded back to the appellate authority situated in Central Government Industrial Tribunal, Sastry Bhavan, Chennai, for fresh consideration and further, this Court directs the petitioner to deposit further sum of Rs.10,00,000/- to the credit of A.T.A.No.998/13/2005, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Appellate Authority shall dispose of the appeal on merits and in accordance with law, after affording an opportunity of hearing to the petitioner, within a period of twelve weeks therefrom.

8.With the above observations, these Writ Petitions are disposed of. No costs.

Sd/-

Assistant Registrar (T&P)

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/ /2021

Sub Assistant Registrar(CS)

To

1.The Presiding Officer,
Employees Provident Fund Appellate Tribunal
Core II, 4th Floor, Laxmi Nagar District Centre
Laxmi Nagar, Delhi.

2.The Assistant Provident Fund Commissioner,
EPF Organization, Regional Office,
No.1, Lady Doak college Road,
Chokkikulam, Madurai-625 002.

3.The Recovery Officer,
EPF Organization, II LDC Road,
Chokkikulam,
Madurai-.

+1 CC to M/s.K.MURALI SANKAR, Advocate (SR-1770[F] dated 22/01/2021)

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21.01.2021

SRK(CO)

KB(22.03.2021) 3P 5C

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