



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)Nos.8259 & 8260 of 2021

and

W.M.P(MD)Nos.6241 & 6242 of 2021

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W.P(MD)No.8259 of 2021:-

T.1601, P & T Employees Consumer
Co-operative Stores Limited,
Rep. through its Manager,
3, Ramani Nagar,
Co-operative Colony Road,
Thanjavur.

... Petitioner

vs.

1.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
P.B.No.588/Sree Complex,
'D' Block, No.18, Madurai Road,
Trichy - 620 008.

2.The Assistant Provident Fund Commissioner cum
Recovery Officer,
P.B.No.588/Sree Complex,
'D' Block, No.18, Madurai Road,
Trichy - 620 008.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, against the orders of the respondents under Section 14-B of the Act in No.CB/TRY/EPF/PDC/C 32/17331/2019-20 dated 26.09.2019 and the order under Section 7Q of the EPF Act in No.CB/TRY/PDC/C-32/17331/2019-2020 dated 26.09.2019 and consequent order of attachment in No.Recy/CB/TRY/RO/17331/8F/TAN/2020-2021 dated 17.03.2021 in the nature of writ calling for the records on the file of the respondent and quash the same.

For Petitioner	: Mr.V.O.S.Kalaiselvam
For Respondents	: Mr.V.S.V.Venkateswaran

W.P(MD)No.8260 of 2021:-

T.1601, P & T Employees Consumer
Co-operative Stores Limited,
Rep. through its Manager,

<https://hcservices.ecourts.gov.in/hcservices/>



3, Ramani Nagar,
Co-operative Colony Road,
Thanjavur - 7.

... Petitioner

vs.

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
P.B.No.588/Sree Complex,
'D' Block, No.18, Madurai Road,
Trichy - 620 008.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, against the orders of the respondent under Section 14-B of the Act in No.CB/TRY/14B Proc/C32/17331/2021 dated 17.01.2021 and the order under Section 7Q of the EPF Act in No.CB/TRY/7Q Proc/PDC/C-32/17331/2021 dated 17.01.2021 and quash the same.

For Petitioner : Mr.V.O.S.Kalaiselvam
For Respondent : Mr.V.S.V.Venkateswaran

COMMON ORDER

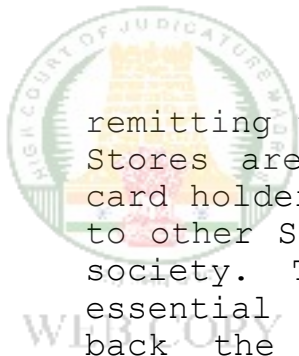
W.P(MD)No.8259 of 2021 is filed seeking a Writ of Certiorari, to quash the order of the respondent issued under Section 14-B of the Act in No.CB/TRY/EPF/PDC/C 32/17331/2019-20 dated 26.09.2019 and the order under Section 7Q of the EPF Act in No.CB/TRY/PDC/C-32/17331/2019-2020 dated 26.09.2019 and consequent order of attachment in No.Recy/CB/TRY/RO/17331/8F/TAN/2020-2021 dated 17.03.2021.

2.W.P(MD)No.8260 of 2021 is filed seeking a Writ of Certiorari, to quash the order of the respondent issued under Section 14-B of the Act in No.CB/TRY/14B Proc/C32/17331/2021 dated 17.01.2021 and the order under Section 7Q of the EPF Act in No.CB/TRY/7Q Proc/PDC/C-32/17331/2021 dated 17.01.2021.

3.Mr.V.S.V.Venkateswaran, learned counsel accepts notice on behalf of the respondents.

4.By consent of both parties, these Writ Petitions are taken up for final disposal at the stage of admission itself.

5.The learned counsel appearing for the petitioner submitted that only one employee viz., the Manager is working in the Office and they are running 9 fair price shops to which, 9 salesmen are working. The petitioner Stores though legally not coverable under the ESI Act, considering the welfare of the employees, through the resolution, the employees working in the petitioner stores were covered under the EPF Act covered voluntarily and the petitioner is



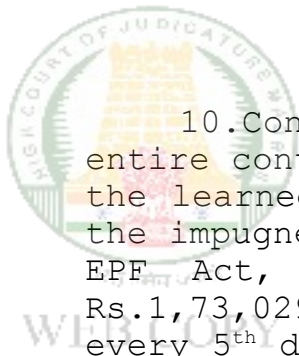
remitting the EPF contributions periodically. The activities of the Stores are to distribute the essential commodities to the ration card holders and also distribute the essential commodities belonging to other Societies to which, the petitioner Stores are the leading society. The other Societies would pay back the cost of the essential commodities at a later date and the Government is to pay back the subsidies arising out of the expenses incurred in distributing the essential commodities since most of the articles are supplied at free of cost. The petitioner Stores used to pay salary to the employees and remit the contributions as and when the Societies pay back the cost and the Government repay the subsidy. Due to 30% re-payment of subsidies by the Government and that too, with inordinate delay, the societies could not pay back the cost of the articles as there were no funds in the Stores and due to acute financial crisis, there was a delay in payment of wages to the employees and as and when wages are paid, the deductions were made and the contributions are remitted immediately.

6.The learned counsel appearing for the petitioner further submitted that due to the financial crisis, the petitioner could not remit the EPF contribution on the due dates and the same fell into arrears for the period from 01.04.2016 to 31.03.2019 (wage month of 04/2014 to 10/2018) and from 01.04.2019 to 31.03.2020 respectively. Subsequently, the petitioner remitted all the contributions, but remitted belatedly for the above said periods. The respondent vide notices, dated 06.09.2019 and 23.11.2020, directed the petitioner to appear before the enquiry authority for personal hearing on 26.09.2019 and 03.12.2020 respectively. After receipt of the said notices from the respondent, the petitioner's representative appeared before him on various dates and requested the respondent to waive the damages and accept the interest amount in installments. Without taking into consideration the request of the petitioner, the respondent has passed the impugned orders, dated 26.09.2019 and 17.01.2021 under Section 7Q of the EPF & MP Act, 1952, imposing interest amount of Rs.1,73,029/- and Rs.2,13,919/- respectively.

7.The learned counsel appearing for the petitioner submitted that the petitioner will pay the interest amount of Rs.1,73,029/- and Rs.2,13,919/- in twenty equal monthly installments and has also filed an affidavit to that effect on 23.04.2021.

8.The learned counsel appearing for the petitioner further submitted that due to COVID-19 pandemic situation, the appeals were not filed in time and seeks time for filing appeals against the order passed claiming damages under Section 14 B of the Act.

9.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.



10. Considering the fact that the petitioner has remitted the entire contributions payable under EPF Scheme and the submissions of the learned counsel appearing on either side, without setting aside the impugned orders of the respondent passed under Section 7Q of the EPF Act, the petitioner is permitted to pay the amount of Rs.1,73,029/- and Rs.2,13,919/- in 10 equal monthly installments on every 5th day of English Calendar month starting from 5th June, 2021. The first installment shall commence by making payment on or before 5th June, 2021 and if the petitioner commits default of any two installments, the entire amounts would become due immediately and the respondent is entitled to recover the balance amount, as per the procedure contemplated under the EPF Act.

11. As far as contention of learned counsel for the petitioner seeks time to file appeal against the order passed under Section 14 B of the Act is concerned, the petitioner is given time till 05.07.2021. The petitioner is directed to file appeals on or before 5th July, 2021. The respondents are restrained from taking any coercive steps in freezing the account of the petitioner till 05.07.2021.

12. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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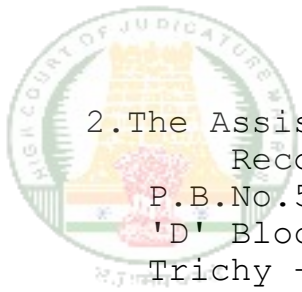
Note :

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 Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
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'D' Block, No.18, Madurai Road,
Trichy - 620 008.

<https://hcservices.ecourts.gov.in/hcservices/>



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KK (03.06.2021) 5P 3C