



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2021

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THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.(MD) No.14072 of 2021 and

WMP(MD) .No.11041 of 2021

WEB COPY

M/s. Jude Foods India Pvt. Ltd.,
Rep. by its Director, Shajy Mathew,
230/1, North Thamaraikulam,
Agasteeswaram Taluk,
Kanyakumari District-629 704

... Petitioner

Vs.

1.The Regional Provident Fund Commissioner - II,
Employees Provident Fund Organization,
Sub Regional Office, 65-A, Water Tank Road,
Nagercoil - 629 001.

2.The Branch Manager,
Federal Bank,
Swamithopu Branch,
D.No.104, Opp. Swamithopu Temple,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent herein in proceedings in No.TN/NGL/Enf/C.32/75404/8F/2021 dated 08.07.2021 issued to the 2nd respondent and quash the same and consequently, direct the first respondent to defer all recovery proceedings, based on the order in No.TN/NGL/ENF/C32/75404/7A proceedings/2021 dated 21.04.2021, pending the admission and stay hearing of the appeal filed by the petitioner on 29.07.2021, before the Employees Provident Fund Appellate Tribunal - the Central Government Industrial Tribunal Cum Labour Court, Chennai.

For Petitioner : Mr.M. Azeem

For 1st Respondent : Mr.J.S. Murali for R1

**ORDER**

This petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the first respondent herein in proceedings No.TN/NGL/Enf/C.32/75404/8F/2021 dated 08.07.2021 issued to the 2nd respondent and quash the same and consequently direct the first respondent to defer all recovery proceedings, based on the order in No.TN/NGL/ENF/C32/75404/7A proceedings/2021 dated 21.04.2021, pending the Appeal filed by the petitioner on 29.07.2021 before the Employees Provident Fund Appellate Tribunal- the Central Government Industrial Tribunal Cum Labour Court, Chennai.

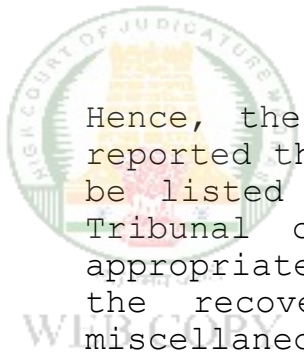
2. Heard the learned counsel appearing for the petitioner and the learned Counsel appearing for the first respondent.

3. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner Company, due to Covid -19 lock down, from March 2020, the petitioner company was completely closed. While so, the 1st respondent issued summons for an enquiry under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 for determination of contribution for the period from March, 2018 to December 2019 through Video Conferencing. The petitioner could not produce records and file objections due to closure of the factory. However, the 1st respondent proceeded further and vide proceedings dated 21.04.2021 passed order under Section 7A of the Act, determining the contribution payable by the petitioner for the period from March, 2018 to December, 2018 at Rs.82,86,625/- and after deducting the payments already made, the petitioner was directed to pay a sum of Rs.52,96,888/-. Aggrieved by the same, the petitioner has come forward with the present Writ Petition.

5. When the Writ Petition is taken up for consideration, the learned counsel appearing for the first respondent would submit that as against the impugned order, already, the petitioner has preferred an Appeal before the EPF Appellate Tribunal under Section 7-I of the EPF & MP Act r/w Rule 7 of the EPF Appellate Tribunal Procedure Rules on 29.07.2001 along with condone delay petition and stay petition. Therefore, the learned counsel would submit that the Tribunal will consider the Appeal preferred by the petitioner in accordance with law and therefore, the present Writ Petition is not maintainable.

6. Considering the submission made by the learned counsel for the first respondent and since the petitioner has already moved the EPF Appellate Tribunal by preferring an Appeal as against the impugned order, as rightly pointed out by the learned counsel for the first respondent, the present Writ Petition is not maintainable.



Hence, the Writ Petition is rejected as not maintainable. It is reported that the Appeal preferred by the petitioner was directed to be listed on 7.09.2021 by the Tribunal and till such time, the Tribunal considers the application in the Appeal and passes appropriate orders therein, the respondents shall not proceed with the recovery proceedings. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

// 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 Employees Provident Fund Appellate Tribunal
The Central Government Industrial Tribunal Cum Labour Court,
Chennai.

2.The Regional Provident Fund Commissioner - II,
Employees Provident Fund Organization,
Sub Regional Office, 65-A, Water Tank Road,
Nagercoil - 629 001.

3.The Branch Manager,
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Swamithopy Branch,
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+1 CC to M/s.J.S. Murali, Advocate (SR-26592[F] dated 17/08/2021)

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17.08.2021

ES(CO)

TR(02.09.2021) 3P 5C