



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD)No.23267 of 2019

and

W.M.P. (MD)Nos.19992 and 19993 of 2019

WEB COPY

The Commissioner,
Shenkottai Municipality,
Municipal Office,
Shenkottai Post - 627 809,
Tirunelveli District.

... Petitioner

-vs-

1.The Employee's Provident Fund Organization,
Rep. by its Regional Provident Fund Commissioner - II,
Bhavishya Nidhi Bhavan,
NGO B Colony, Perumalpuram Post,
Tirunelveli - 627 007.

2.The Enforcement Officer,
Circle - 12,
Employees' Provident Fund Organization,
Bhavishya Nidhi Bhavan,
NGO B Colony, Perumalpuram Post,
Tirunelveli - 627 007.

3.The Branch Manager,
State Bank of India,
Near Shenkottai Bus Stand,
Shenkottai Branch,
Shenkottai Post - 627 809,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, call for the records pertaining to the Impugned orders passed by the First Respondent in File No. TN/TNY/0089301000/CD-1/Circle 12/7A/2019 dated 14.10.2019 and consequential order passed in File No. TN/TNY/89301/CD-1/T-15/Circle 12/8F/2019/10-5 dated 30.10.2019 and quash the same.

For Petitioner : Mr. M.Saravanakumar
For Respondents : Mr. K.Muralishankar



O R D E R
(through video conference)

Heard Mr. M.Saravanakumar, Learned Counsel for the Petitioner and Mr. K.Muralishankar, Learned Counsel appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2.The First Respondent by Order in File No. TN/TNY/0089301000/CD-1/ Circle 12/7A/2019 dated 14.10.2019 had determined the contribution payable under Section 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act' for short) by the Petitioner, who received the copy of that order, and in the consequential Order No. TN/TNY/89301/CD-1/T-15/Circle.12/8F/2019/10-5 dated 30.10.2019 under Section 8-F of the Act, had demanded the dues from the Petitioner for the same.

3.Learned Counsel for the Respondents contends that the Petitioner, who received the copy of the Order in File No. TN/TNY/0089301000/CD-1/ Circle 12/7A/2019 dated 14.10.2019 passed by the First Respondent, was entitled to prefer appeal against that order under Section 7-I of the EPF Act within a period of 60 days from the date of its receipt in terms of Rule 7(2) of the Employees' Provident Fund Appellate Tribunal (Procedure) Rules, 1997, before the Appellate Authority, who has been empowered to condone delay in filing such appeal for an extended period of 60 days, if sufficient cause for not preferring appeal within that period is made out.

4.In view of the same, Learned Counsel for the Petitioner seeks permission of the Court to withdraw the Writ Petition with liberty to resort to the aforesaid aforesaid procedure for challenging the Order No. TN/EO/91183/MDU/ M8/2016 dated 25.07.2016 passed by the Fourth Respondent under Section 7-A of the EPF Act and he has filed a memo dated 29.07.2021 to that effect through e-mail, which has been placed on record. It is made clear that for the purpose of reckoning limitation for availing aforesaid remedy, the period from the date of filing of the Writ Petition, viz., 04.11.2019, till the date on which certified copy of this order is made ready by the Registry, shall be excluded.

5.In response to the submission made by the Learned Counsel for the Petitioner that the Respondents should be restrained from taking any coercive action for recovery against the Petitioner in the interregnum, Learned Counsel for the Second to Fourth Respondents, on instructions, state that the prescribed procedure of recovery as highlighted by this Court in ***M/s. SKM Animal Feeds and Foods (India) Private Limited -vs- Assistant Provident Fund Commissioner, Salem*** (Order dated 27.01.2021 in W.P. No. 35850 of 2019) would be scrupulously followed by the concerned authorities. The said



submission made is placed on record.

In the result, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 Regional Provident Fund Commissioner - II,
Employee's Provident Fund Organization,
Bhavishya Nidhi Bhavan,
NGO B Colony, Perumalpuram Post,
Tirunelveli - 627 007.

2.The Enforcement Officer,
Circle - 12,
Employees' Provident Fund Organization,
Bhavishya Nidhi Bhavan,
NGO B Colony, Perumalpuram Post,
Tirunelveli - 627 007.

Copy to

1.The Commissioner,
Shenkottai Municipality,
Municipal Office,
Shenkottai Post - 627 809,
Tirunelveli District.

2.The Section Officer,
ER Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

(Registry is directed to return the original copy of the impugned order to the Petitioner under written acknowledgment after ratining a copy of the same for record)



+1 CC to M/s.M.SARAVANA KUMAR, Advocate (SR-24675[F] dated
30/07/2021)

+1 CC to M/s.K.MURALI SANKAR, Advocate (SR-24694[F] dated
30/07/2021)

WEB COPY

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RS (15.09.2021) 4P 8C