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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 8826 of 2018

and

W.M.P. No. 10693 of 2018

A.Alagarsamy

...Petitioner

-vs-

- 1.The Regional Provident Fund Commissioner,
Employee Provident Fund Organisation,
No.37, Royapettah High Road,
Royapettah, Chennai - 600 014.
- 2.The Assistant Provident Fund Commissioner,
E.P.F. Organisation, Regional Office,
Lady Doak College Road,
Chockikulam, Madurai - 2.
- 3.The Recovery Officer,
E.P.F. Organisation, Regional Office,
Lady Doak College Road,
Chockikulam, Madurai - 2.
- 4.The Enforcement Officer,
E.P.F. Organisation, Regional Office,
Lady Doak College Road,
Chockikulam, Madurai - 2.
- 5.The Central Government Industrial Tribunal cum Labour Court,
Rep by its Registrar,
Shastri Bhavan,
Nungambakkam,
Chennai.

...Respondents

Prayers:- Petition filed under Article 226 of the Constitution of India praying to issue Writs of Certiorari, to call for the records in pursuant to the impugned order passed by the Second Respondent in Order No.MD/MDU/91200, dated 07.09.2016 and consequential impugned warrant of attachment of movable property passed by the Third Respondent in order No.TN/MDU/91200/Recy/WR2009/2017, dated 19.07.2017 and the impugned order passed by the Fifth Respondent in proceedings F.No.EPFA(RETURN/MISC./UNNUMBERED)/2017 dated 06.10.2017 and quash these orders.



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For Petitioner : Mr.R.Prem Narayan
For Respondents : Mr.V.Sundareswaran
Standing Counsel (for R1 to R4)
: Labour Court (for R5)

O R D E R

Heard Mr. R.Prem Narayan, Learned Counsel appearing for the Petitioner and Mr. V.Sundareswaran, Learned Standing Counsel appearing for the First to Fourth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Second Respondent by Order in File No. TN/59426/MDU/Enf.B/Circle 24/24014/2016 dated 07.09.2016 had ascertained the contribution towards provident fund dues payable by the Petitioner for the period from February 2012 to January 2016 under Section 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act' for short) and the copy of the said order was delivered to the Petitioner on 16.09.2016 as per the postal acknowledgment card produced by the Respondents. The Petitioner was entitled to prefer appeal against that order under Section 7-I of the 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. However, the Petitioner had presented the appeal before the Fifth Respondent, who is the Appellate Authority, beyond the maximum limitation period of 120 days from the date of receipt of the copy of that order from the Second Respondent and it was refused to be taken on file in the Order in F. No. EPFA (RETURN/MISC./UNNUMBERED)/2017 dated 06.10.2017. Subsequently, the Second Respondent by Order No. TN/DU/91200/Recy/WR2009/2017 dated 19.07.2017 initiated recovery proceedings under Section 8-B of the Act. In that backdrop, the Petitioner has filed this Writ Petition challenging the Order in File No. TN/59426/MDU/Enf.B/Circle 24/24014/2016 dated 07.09.2016 and the Order No. TN/DU/91200/Recy/WR2009/2017 dated 19.07.2017 passed by the Second Respondent in this Writ Petition.

3. The Hon'ble Supreme Court of India in Assistant Commissioner (CT) LTU, Kakinada -vs- Glaxo Smith Kline Consumer Health Care Limited (Order dated 06.05.2020 in Civil Appeal No. 2413 of 2020) has emphatically laid down that the High Court in the exercise of powers under Article 226 of the Constitution of India, ought not to entertain Writ Petition assailing the order passed by a statutory authority which was



not appealed against within the maximum period of limitation before the concerned Appellate Authority. Moreover, when the parental order passed under Section 7-A of the Act has attained finality and no manifest error has been demonstrated in the consequential order of recovery, the Petitioner cannot prosecute this Writ Petition for the relief claimed.

4. In the result, the Writ Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Regional Provident Fund Commissioner,
Employee Provident Fund Organisation,
No.37, Royapettah High Road,
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- 2.The Assistant Provident Fund Commissioner,
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Chockikulam, Madurai - 2.
- 4.The Enforcement Officer,
E.P.F. Organisation, Regional Office,
Lady Doak College Road,
Chockikulam, Madurai - 2.
- 5.The Registrar,
The Central Government Industrial Tribunal cum Labour Court,
Shastri Bhavan, Nungambakkam, Chennai.

+1cc to Mr.R.Prem Narayan, Advocate SR. No.12908

+1cc to Mr.V.Sundareswaran, Advocate SR. No.12483

W.P. No. 8826 of 2018

NRL (CO)

PR (10/03/2022)

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