



WEB COPY



W.P. No. 29058 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2022

CORAM

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

W.P. No. 29058 of 2016

and

W.M.P. Nos. 25107 and 25108 of 2016

M/s. Sakthi Aiswarya Spinning Mills Private Limited
Rep. by its Authorized Signatory
P.Karuppusamy
S/o. K.Palanisamy Gounder
Pachal Village, Puduchathiram Viz
Namakkal Taluk

... Petitioner

-VS-

1. The Regional Provident Fund Commissioner
Sub Regional Office, S.P.Plaza
Anna Salai
Salem – 636 004.
2. The Recovery Officer
Sub-Regional Office
S.P. Plaza, Anna Salai
Salem – 636 004.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the Second Respondent in his proceedings no. TN/PF/RECOVERY/21118/2015-16 date 22.02.2016 and quash the same.



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For Petitioner : Mr. C.Prakasam

For Respondents : Mr. P.K.Paneer Selvam

ORDER

Heard Mr. C.Prakasam, Learned Counsel for the Petitioner and Mr. P.K.Paneer Selvam, Learned Counsel for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Third Respondent by Order No. TN/SRO/SLM/PDC/21118/S-5/7-Q PROCEEDING/2013 dated 08.07.2013 had levied interest under Section 7-Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act' for short) against the Petitioner and the Petitioner does not dispute the receipt of its copy. Subsequently, the Second Respondent by Order No. TN/PF/RECOVERY/ 21118/2015-16 dated 22.02.2016 initiated proceedings against the Petitioner under Section 8-B of the Act for the recovery of that amount, which is alone challenged in this Writ Petition.



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3. It is pointed out by Learned Counsel for the Respondents, relying on the decisions of this Court in *Saidapet Co-operative Milk Producers Society Ltd., -vs- Deputy Director, ESI Corporation Regional Officer (Tamil Nadu)* (Order dated 04.08.2017 in C.M.A. No. 469 of 2015) and *M/s. Hexaware Technology -vs- Commissioner, Employees State Insurance Corporation, Chennai* (Order dated 30.10.2019 in W.P. No. 29677 of 2018), that in the absence of any challenge to that parental order determining liability, the Writ Petition cannot be prosecuted challenging the consequential order of recovery, as in this case. The said well founded submission made on behalf of the Respondents deserves acceptance. That apart, no infirmity has been shown in the decision-making process of the Second Respondent while passing the impugned order requiring interference by this Court in the exercise of the discretionary powers of judicial review under Article 226 of the Constitution.

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

05.07.2022

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Index: Yes/No

Note: Issue order copy by 18.07.2022.



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To

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Anna Salai
Salem – 636 004.
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Sub-Regional Office
S.P. Plaza, Anna Salai
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P.D. AUDIKESAVALU, J.

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