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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM

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

W.P.NO.3669 OF 2016

The General Manager,
Dharmapuri District Co-operative
Milk Producers' Union Limited,
Salem Main Road,
Krishnagiri District - 635 001.

... Petitioner

-vs-

1. The Additional Central Provident Fund Commissioner,
No. 37, Royapettah High Road,
Opposite Swagat Hotel,
Chennai.
2. The Regional Employees Provident Fund Organisation,
Post Box No. 3875,
Bhavishya Nidhi Bhawan,
Dr. Balasundaram Road,
Coimbatore.
3. The Employees Fund Commissioner and Recovery Officer,
Employees Provident Fund Organisation,
Sub-Regional Officer,
Sri Jayalakshmi Plaza,
Swarnapuri,
Salem - 636 004.

... Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the Third Respondent in his Proceedings No. TN/SLM/16423/8F/Recovery/2015 dated 01.01.2016 and quash the same.

For Petitioner : Mr.T.K.Ashok Kumar

For Respondents : Mrs.R.Meenakshi



O R D E R

Heard Mr. T.K.Ashok Kumar, Learned Counsel for the Petitioner and Mrs. R.Meenakshi, 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 in RRC No. CBSLM740/0016423/09/ 04/2015/510/35 dated 10.04.2015 levied penal damages under Section 14-B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the 'Act' for short) on the Petitioner, which was delivered by Registered Post for which acknowledgment card has been produced. The Petitioner was entitled to prefer appeal against that order under Section 7-I of the Act within a period of 60 days 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. The Petitioner, does not appear to have preferred any such appeal within the maximum period of limitation of 120 days prescribed for the same. The Petitioner has thereafter filed this Writ Petition challenging the Order No. TN/SLM/16423/8F/Recovery/2015 dated 01.01.2016 passed by the Third Respondent under Section 8-F of the Act for recovery of the amount due from the Petitioner in terms of the said Order in RRC No. CBSLM740/0016423/09/ 04/2015/510/35 dated 10.04.2015 passed by the Third Respondent, which has attained finality.

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 Third 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.



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In the result, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vjt

To

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+1cc to M/s.R.Meenakshi, Advocate, S.R.No.34782

W.P.No.3669 of 2016

RK(CO)
RLP(16/06/2022)