



W.P.(MD)No.2701 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.09.2022**

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THE HON'BL MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.2701 of 2012

and

M.P.(MD)No.1 of 2012

Q915, Mudukulathur Primary
Agricultural Credit Society Ltd.,
represented through its Secretary
T.Ravidran

Ramanathapuram District,
Tamil Nadu, Mudukulathur – 623 704.

... Petitioner

Vs.

1. The Assistant Provident Fund Commissioner
Employees Provident Fund Organization,
Regional Office,
Madurai – 600 002.

2. The Recovery Officer,
Employees Provident Fund Organization,
Regional Office,
Madurai – 600 002.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the



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records on the file of the respondents in M5/TN/MDU/29725/ Recovery/RO/11, dated 25.11.2011 and the consequent order of the second respondent in No.M5/TN/MD/29725/RECY/RO/12, dated 23.02.2012 and quash the same .

For Petitioner : Mr.V.O.S.Kalaiselvam

For Respondents : Mr.P.Karthick
Standing Counsel

ORDER

This Writ Petition is filed to quash the impugned order, dated 25.11.2011 and the consequential order of the second respondent, dated 23.02.2012.

2. The brief facts of the case as stated in the affidavit is that the petitioner is a Co-operative Agricultural Credit Society Ltd. registered under the Tamil Nadu Co-operative Societies Act and voluntarily enrolled the said society before the first respondent organization. The Credit Society has incurred huge loss and the Cumulative loss of the



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society for the year 1997-1998 is Rs.18,34,168.19/- and the cumulative loss of the society for the year 1998-1999 is Rs.13,19,166.98/-. In the year 2007-2008, the loss was Rs.98,32,455.55/-. Even thereafter, the society continue to incur huge loss.

3. The contention of the petitioner society is that because of the loss, the petitioner society did not pay the wages to its employees. Hence, there was a delay in payment and contribution. Therefore, there is no willful negligence. In this stage, the respondent has issued the impugned notice initiating deterrent action to recover the amount.

4. The respondents have filed a counter affidavit stating that the damages of Rs.3,71,573/- was levied on 19.01.2011 and 7Q interest to the tune of Rs.1,70,234/- was also levied. Aggrieved over the same, the petitioner society had filed a writ petition in W.P.(MD)No.5903 of 2011 and this Court, vide order, dated 09.09.2011, granted liberty to the petitioner society to file an appeal before the Tribunal within 30 days. After the disposal of the petition, the respondents have initiated deterrent



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action without knowing that the petitioner had filed an appeal before the Tribunal. The relevant portion of the counter affidavit is stated as under:

“3. I respectfully state that since further course of action taken by the establishment was not made known, the respondents were left with no other option but to initiate recovery action. It is at this stage we have come to know about the filing of appeal before the Tribunal in respect of the damages. Thereupon, the order enforcing damages was withheld. Regarding interest, the establishment has voluntarily cleared a substantial portion of the liability. On 28.06.2012, they have issued a letter undertaking to pay the balance interest amount within one month. It is well settled that as against demand for interest under Section 7Q of the Act, an appeal before Tribunal is not maintainable. Since we have come to know that ATA.No. 845 (13) 2011 has been filed questioning the levy of damages, no coercive action is intended to be taken.”

The respondent themselves have admitted that the entire issue is pending before the Tribunal as on date and no coercive action is intended to be taken. The Learned Counsel appearing for the petitioner submitted that the claim of the petitioner will be considered after the disposal of the petition pending before the Tribunal.



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5. Therefore, this Court is of the considered opinion that the respondents cannot take any further deterrent action. The respondents are directed not to take coercive steps and the respondents are at liberty to take further action after the disposal of the A.T.A.845 (13) 2011, which is pending before the Tribunal.

6. With the above said direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

29.09.2022

Index : Yes / No
Internet : Yes / No
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To

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S.SRIMATHY, J

jbr

Order made in
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29.09.2022