



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2022

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.2447 of 2022 and
WMP(MD) No.2130 of 2022

V.P.M.Sankaranarayanan

...Petitioner

Vs.

1.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Old Raja Lorry Shed, 1st Floor,
Near Mariamman Kovil,
Sivakasi Town,
Virudhunagar District.

2.The Recovery Officer,
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Chokkikulam,
Madurai - 625 002.

...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 records pertaining to the impugned order made in E.P.F.C.P 16 No.TN/MDU/42387/RECY/CP16/2021, dated 04.02.2021, on the file of the second respondent and quash the same as illegal and arbitrary,

For Petitioner : Mr.M.Thirunavukkarasu
For Respondents : Mr.K.Murali Shankar

O R D E R

This writ petition is filed as against the order of attachment of movable property, dated 14.02.2021.

2.The learned counsel appearing for the petitioner submits that this petitioner is Management Trustee of V.P.Muthaiya Pillai Meenakshi Ammal Trust, Virudhunagar District and the Trust is running an Educational Institute from the year 1994. According to the learned counsel appearing for the petitioner, they were prompt in paying EPF contributions to the first respondent. However, by the impugned order in TN/ MDU/ 42387/ RECY/ CP16/ 2021, dated 04.02.2021, the first respondent has claimed that the petitioner is



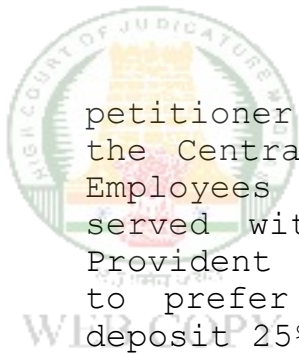
liable to pay a sum of Rs.23,79,169/- (Rupees Twenty Three Lakhs Seventy Nine Thousand One Hundred and Sixty Nine only) towards interest, under Sections 7Q and 14 B of Employees Provident Funds and Miscellaneous Provisions Act, 1952. The grievance of the petitioner is that the order passed under Section 14B of Employees Provident Fund Act has not been served upon the petitioner and even in the order of attachment dated 04.02.2021, there is no reference about the orders passed under Section 14 B of Employees Provident Fund Act at all. The further grievance of the petitioner is that even without affording an opportunity to the petitioner, the impugned order of attachment has been passed.

3. The learned counsel appearing for the petitioner further submits that to show their bonafide, they are also prepared to pay 25% of the amount referred in the impugned order. He further submits that the petitioner may be provided with a copy of the order, passed under Section 14B of the Employees Provident Fund Act, so that the petitioner can challenge the same before Central Government Industrial Tribunal, by filing statutory appeal under Section 7(1) of Employees Provident Fund Act.

4. Mr. K. Murali Shankar, learned counsel who takes notice for the respondents seeks short accommodation to get instructions as to whether the order under Section 14(B) of Employees Provident Fund Act has been served upon the petitioner. He further submits that without serving the order under Section 14 B of Employees Provident Fund Act, the respondent would not have opted for passing the order of attachment of movable property. He also submits that if any order has been passed under Section 14B of Employees Provident Fund Act, an appropriate remedy available to the petitioner is to challenge the same before the Central Government Industrial Tribunal.

5. This Court paid its anxious consideration to the rival submissions made and also perused the materials placed on record.

6. The petitioner claims that being the Management Trustee of V.P. Muthaiya Pillai Meenakshi Ammal Trust, the petitioner is regular in paying the provident fund contributions. The impugned order reveals that the petitioner has failed to pay Rs.23,79,169/- and the order under Section 14B and 7Q of Employees Provident Fund Act, was also imposed against the petitioner's Trust, even thereafter the petitioner failed to pay the amount as demanded by the respondent. Therefore, the impugned order of attachment of movable property was passed. The learned counsel for the petitioner has taken a specific stand that the order passed under Section 14B of Employees Provident Fund Act, was not served upon the petitioner. Yet another stand taken by the petitioner's counsel is that in the order of attachment dated 04.02.2021, there is no reference about the orders passed under Section 14 B of Employees Provident Fund Act. It is also stated that as against the order passed under Section 14B of Employees Provident Fund Act, the



petitioner is having a remedy of filing a statutory appeal before the Central Government Industrial Tribunal, under Section 7(1) of Employees Provident Fund Act. More over, the petitioner was not served with the order passed under Section 14B of Employees Provident Fund Act. Therefore, the petitioner is not in a position to prefer the statutory appeal. However, they are prepared to deposit 25% of the demand amount mentioned in the impugned order.

7. Considering the facts and circumstances of the case and also taken into account the submission of the learned counsel for the petitioner that they are ready to deposit 25% of the demand amount, this Court is inclined to dispose of the writ petition at the admission stage itself, with a direction to the first respondent to serve the copy of the order passed under Sections 14B and 7Q of the Employees Provident Fund Act to the petitioner, within a period of one week from the date of receipt of a copy of this order. The learned counsel appearing for the respondents shall also ensure the same by collecting the copy of the said order and furnish the same to the petitioner's counsel, enabling them to prefer a statutory appeal before the concerned Tribunal. On receipt of the order copy, the petitioner is expected to file an appeal within a period of three weeks from the date of receipt of a copy of this order. The Tribunal shall also entertain the appeal without insisting on limitation. The petitioner shall also pay 25% of the amount, due to the first respondent without prejudice to his right in the appeal within a period of ten days from the date of receipt of a copy of this order. There shall be an order of interim stay for the order of attachment and the impugned order shall remain suspended for a period of six weeks from the date of receipt of the order and the petitioner shall work out his remedy for further stay of the proceedings before the Industrial Tribunal by filing the statutory appeal.

8. With the above observations and directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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 /

<https://hccs.courtsonline.gov.in/services>.



To

1.The Presiding Officer,
The Central Govt. Industrial Tribunal, Chennai.

2.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Old Raja Lorry Shed, 1st Floor,
Near Mariamman Kovil,
Sivakasi Town,
Virudhunagar District.

3.The Recovery Officer,
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Chokkikulam,
Madurai - 625 002.

+1 CC to M/s.K.MURALI SANKAR, Advocate (SR-4552[F] dated 07/02/2022)

+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate (SR-4578[F] dated
07/02/2022)

ORDER MADE IN
W.P(MD)No.2447 of 2022 and
WMP(MD) No.2130 of 2022
04.02.2022

SE (CO)
TR(21.03.2022) 4P 6C