



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.4625 of 2022

and

W.M.P. (MD) .No.3873 of 2022

The Commissioner,
Senkottai Municipality,
Senkottai,
Tirunelveli District.

... Petitioner

Vs.

1.The Employee's Provident Fund Organization,
Represented by its Regional Provident Fund Commissioner - II,
Bhavishya Nidhi Bhavan,
NGO B Colony,
Perumalpuram Post,
Tirunelveli - 627 007.

2.The Recovery Officer,
Bhavishya Nidhi Bhavan,
N.G.O.B Colony,
Tirunelveli.

3.The Branch Manager,
State Bank of India,
Shenkottai Branch,
No.50 Main Road, Shenkottai,
Tenkasi District.

... 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 passed by the second respondent in his proceedings CB/TNY/89301/RECY-Tly-CP-3/2022 dated 25.02.2022 and consequential communication of the third respondent in MISC/2021-22 dated 02.03.2022 and quash the same.

For Petitioner : Mr.A.SivaSubramanian

For R-3 : Mr.S.Sukumar



ORDER

The petitioner has challenged the impugned order passed by the second respondent in his proceedings dated 25.02.2022 and the consequential communication of the third respondent dated 02.03.2022.

2. The petitioner is the Commissioner of Senkottai Municipality. The Municipal service and other quasi Government service were brought under the Employee's Provident Fund Contribution from the year 2013 onwards. Thereafter, the first respondent initiated proceedings under Section 7-A of the Employee's Provident Fund Act.

3. The contention of the petitioner is that the petitioner has submitted all the records before the first respondent authority. That the municipality has not deducted any employees contribution for the employees engaged by the contractors. The municipality engages outsourcing agency to do contract work. The said outsourcing agency are having the individual code and they have remitted the contribution to the Employee's Provident Fund Department. The contention of the petitioner is that the Municipality has submitted all particulars regarding the contractors before the authority. In spite of the same, the first respondent has issued the quantified amount as Rs.1,69,07,686/- (Rupees One Crore Sixty Nine Lakhs Seven Thousand Six Hundred and Eighty Six only) as the amount payable under Section 7-A by the petitioner municipality. The contractors who have engaged the individuals have already paid Employee's Provident Fund and are maintaining records.

4. This factual dispute cannot be decided under Article 226 of the Constitution of India. The petitioner has already filed a statutory appeal before the appellate authority on 08.03.2022. However, it is not yet numbered. Due to COVID-19 pandemic duties and local body elections, the numbering of appeal is getting delayed. Therefore, to the limited extent, this Writ Petition is entertained. The impugned order is kept in abeyance until the petitioner number the statutory appeal and obtain the interim order from the appellate authority.

5. The writ petitioner is granted six months time to number the appeal and obtain stay, until then the impugned order is kept in abeyance. The petitioner submitted that the first respondent has already freeze the account of the petitioner. The first respondent is directed to release the account and to reconsider after six months.



6. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Nsr

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/litigant concerned.

To

1.The Regional Provident Fund Commissioner - II,
The Employee's Provident Fund Organization,
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NGO B Colony,
Perumalpuram Post,
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2.The Recovery Officer,
Bhavishya Nidhi Bhavan,
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3.The Branch Manager,
State Bank of India,
Shenkottai Branch,
No.50 Main Road, Shenkottai,
Tenkasi District.

+1 CC to M/s.A.SIVASUBRAMANIAN, Advocate (SR-12422[F] dated 16/03/2022)

W.P. (MD) .No.4625 of 2022
16.03.2022

ss (CO)

TR(17.03.2022) 3P 5C