

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 09.09.2022

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WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.21526 of 2022

and

W.M.P.(MD)Nos.15663 and 15664 of 2022

V.O.C. Matriculation School Educational Society,
Rep. by its Secretary / Correspondent,
V.Muniyandi Pillai.

... Petitioner

Vs.

1.The Assistant Commissioner,
Employee's Provident Fund Organisation,
Regional Office,
Chokkikulam, Madurai.

2.The Recovery Officer,
Employee's Provident Fund Organisation,
No.1, Lady Doak College Road,
Bhavishya Nidhi Bhavan,
Chokkikulam, Madurai.

3.The Regional Provident Fund Officer,
Employee's Provident Fund Organisation,
No.1, Lady Doak College Road,
Bhavishya Nidhi Bhavan,
Chokkikulam, Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned orders of the 2nd respondent in RRC No.MDMDU39215/0042111/07/04/2022/501/35 dated 22.04.2022 and his consequential impugned order in No.MD/MDU/42111/Recy/CP-2/M-5/2022 dated 10.06.2022 and quash the same.

For Petitioner : Mr.H.Arumugam,
For Mr.V.S.Kishok Kumar.

For Respondents : **(*)Mr.S.Anwar Sameem**
Standing Counsel.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner is an establishment coming under the purview of the Employees' Provident Fund Miscellaneous Provisions Act, 1952. The petitioner did not remit the contribution under Section 7A of the Act in time. As a result, interest under Section 7Q as well as damages under Section 14(B) of the Act came to be levied. The petitioner/assessee did not question the order levying damages before the Tribunal. Therefore, the impugned notice of demand for attaching the school bus came to be passed. Challenging the same, this writ petition came to be filed.

3.I wanted to know from the learned counsel for the writ petitioner if the primary order levying damages had been challenged. The learned counsel submitted that they have not been served with the order under Section 14(B) of the Act. Without going into the correctness of this assertion, I direct the first respondent to serve a copy of the order under Section 14(B) of the Act on the writ petitioner at the earliest. The writ petitioner is given thirty days time thereafter to file an appeal before the Tribunal. If within the aforesaid period of thirty days from the date of service of the order under Section 14(B) of the Act, **(*)the appeal** is filed, the Tribunal will entertain the appeal without reference to limitation.

4.As regards liability under Section 7(Q) of the Act, it is well settled **(*)that** no appeal will lie. Liability under Section 7Q of the Act is automatic. The petitioner gives an undertaking that they would pay the sum of Rs.2,26,622/- within a period of four weeks from today. Till the interim application that may be filed by the petitioner in the proposed appeal against the order levying damages is disposed of, **(*)** liability under Section 14(B) of the Act will not **(*)be** enforced. Such a direction is given in view of the undertaking of the writ petitioner to pay Section 7(Q) amount within four weeks. If the petitioner fails to pay the interest **(*)** **Component** of Rs.2,26,622/-, the benefit given to the writ petitioner will stand automatically recalled without further reference to this Court and the writ petition itself would stand dismissed. The petitioner through their counsel **(*)gives** a further undertaking that they would not file a petition for extension of time to pay the amount under Section 7Q of the Act. All the contentions as regards liability under Section 14(B) of the Act are left open. The attachment levied on the school bus under the impugned order stands raised.



W.P(MD)N



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5.The writ petition is disposed of accordingly. N 3.
Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

(*) Corrected as per order of this court dated 21.09.2022

Sd/-

Assistant Registrar(Records)

// True Copy //

21/09/2022

Sub Assistant Registrar(CS)

Ias

(*) To be substituted the order already despatched on 13/09/2022
To

1.The Assistant Commissioner,
Employee's Provident Fund Organisation,
Regional Office,
Chokkikulam, Madurai.

2.The Recovery Officer,
Employee's Provident Fund Organisation,
No.1, Lady Doak College Road,
Bhavishya Nidhi Bhavan,
Chokkikulam, Madurai.

3.The Regional Provident Fund Officer,
Employee's Provident Fund Organisation,
No.1, Lady Doak College Road,
Bhavishya Nidhi Bhavan,
Chokkikulam, Madurai.

+1 CC to M/s.V.S.KISHOK KUMAR, Advocate (SR-44594[F] dated
13/09/2022)

W.P (MD) No.21526 of 2022
09.09.2022

SVN(CO)

KB(13.09.2022) 3P 5C