



WP.No.13681 of 2018

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.13681 of 2018
& WMP.No.16135 of 2018

M/s.Udumalpet Town Cooperative
Stores Ltd., rep.by its Secretary

...Petitioner

Vs

- 1.The Assistant Provident Fund
Commissioner, Dr.Balasundaram
Road, Coimbatore-18.
- 2.The Recovery Officer, Employees'
Provident Fund Organization,
Dr.Balasundaram Road,
Coimbatore-18.
- 3.The Branch Manager, Coimbatore
District Central Cooperative Bank
Ltd., No.80, State Bank Road,
Post Box No.3781, Coimbatore-18.

...Respondents



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PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the second respondent in Ref. No.TN/RO-CBE/RECOVERY/CC-24/25841/2018 dated 13.2.2018, quash the same and consequently direct the first respondent to refund the amount recovered with 12% interest per annum.

For Petitioner	:	Mr.B.Gopalakrishnan for Mr.N.Manoharan
For R1 & R2	:	Mr.C.Kulanthaivel
For R3	:	No appearance

ORDER

This is a petition filed by the petitioner seeking to quash the order dated 13.2.2018 passed by the second respondent and to direct the first respondent to refund the amount recovered with 12% interest per annum.

2. The facts leading to filing of this case are as follows :

(i) The petitioner is covered under the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act (for short, the Act). Till



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the entry of departmental stores, the petitioner was performing well. As there was a recession in the industry from 1995, the sales dropped drastically and the petitioner management was not able to remit the dues towards employees' provident fund on time.

(ii) That being so, without assessing the dues under Section 7A of the Act, the second respondent determined the dues and passed an order under Section 8F of the Act dated 13.2.2018 attaching the bank account of the petitioner held in the third respondent bank for a sum of Rs.2,37,400/-. Without following the procedure under Section 8B of the Act, the second respondent issued the order dated 14.2.2011 under Section 8-F(iv) of the Act to recover the said sum of Rs.2,37,400/- and recovered a sum of Rs.50,000/- by attaching the bank account of the petitioner held in the third respondent.

(iii) The impugned order passed by the second respondent did not indicate the exact period, for which, the amount was due. Though the petitioner management sent a representation dated 28.2.2018 seeking to issue the details of the amount recovered, no reply has been received from the second respondent. The petitioner also sent a legal notice dated



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12.3.2018. Even thereafter, the second respondent had not sent any reply.

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As the petitioner's bank account held in the third respondent has been attached, they could not operate the account and the wages were not paid to the workers. Therefore, the petitioner is before this Court.

3. Heard the learned counsel appearing on behalf of the petitioner and the learned Standing Counsel appearing for respondents 1 and 2. Though the third respondent was served and his name printed in the cause list, none appeared on behalf of the third respondent.

4. Though the petitioner has filed this Writ Petition challenging the recovery order passed under Section 8F of the Employees Provident Fund and Miscellaneous Provisions, however, it is seen from the records that it is only a consequential order against the assessment order passed under Section 7A of the Act. Without challenging the assessment order passed under Section 7A, it is not open for the petitioner to challenge the consequential order. Hence, this Writ Petition deserves to be dismissed.



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5. For the reasons aforesaid, this Writ Petition stands dismissed.

There shall be no order as to costs. Consequently, the connected miscellaneous petition stands closed.

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Index : Yes (or) No

Neutral Citation : Yes (or) No

Speaking Order : Yes (or) No

NHS

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