



W.P.No.24475 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.24475 of 2023
and
W.M.P.No.23894 of 2023

M/s. PSTS Logistics Pvt Ltd.,
Represented by its Director,
Mr.Ganesh Ram,
2nd Floor, Wavoo Mansion, 48, Rajaji Salai,
Chennai – 600 001.

... Petitioner

Vs.

- 1.The Prohibitory Officer,
Employees Provident Fund Organization,
Regional Office Puducherry,
No.101, 100 Feet Road,
Cholan Nagar,
Puducherry – 605 004.
- 2.The Regional Provident Fund Commissioner – II,
Employees Provident Fund Organization,
Regional Office Puducherry,
No.101, 100 Feet Road,
Cholan Nagar,
Puducherry – 605 004.
- 3.The Enforcement Officer,

Page No.1 of 8



W.P.No.24475 of 2023

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Employees Provident Fund Organization,
Regional Office Puducherry,
No.101, 100 Feet Road,
Cholan Nagar,
Puducherry – 605 004.

4.The Recovery Officer,
Employees Provident Fund Organization,
Regional Office Puducherry,
No.101, 100 Feet Road,
Cholan Nagar,
Puducherry – 605 004.

5.The Branch Manager,
Bank of Baroda,
IBB Madras Branch,
No.45, Moore Street,
Chennai – 600 001.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the impugned order dated 21.07.2023, bearing number RO/PDY/Recovery/DIV-IV/PC 1813/CP-5/2023 passed by the 4th respondent and quash the same and to hold proper enquiry within the time frame as fixed by this Court.

For Petitioner : Mr.B.Leelesh Sundaram
for M/s.Nathan and Associates

For Respondents : Mr.P.K.Panneer Selvam [R1 to R4]

ORDER



W.P.No.24475 of 2023

WEB COPY

This writ petition has been filed seeking for issuance of a writ of Certiorarified Mandamus, to call for the impugned order dated 21.07.2023, bearing number RO/PDY/Recovery/DIV-IV/PC 1813/CP-5/2023 passed by the fourth respondent and quash the same and to hold proper enquiry within the time frame as fixed by this Court.

2. The case of the petitioner is that, it is a Company engaged in the steadfast business of providing end-to-end solutions for Dry Bulk, Break-Bulk, Industrial Projects and Containerized cargo. The petitioner has asset based presence in all the major, minor and private ports in South East India coastline and services comprises of Ship Agency, Stevedoring, Sea and Air freight, Customs Brokerage, Project Forwarding, Heavy Lift & Shift, Port Infrastructure and Management and Customized Logistics Solutions. It is the further case of the petitioner Company that, while they were engaged in their steadfast business, they had got the advantage of extending their services at the M/s.Karaikal Port Trust and for the aforesaid purpose a few employees were drawn in the manner as stated supra by M/s.Karaikal Port Trust as a



W.P.No.24475 of 2023

principal employer. M/s.Karaikal Port Trust had also issued labour licenses and other regulatory certificates to show that such employees were employed by the Principal employer and do not fall within the scope or limits of our employment. Thereafter, one of the employees gave a complaint to the third respondent on 12.06.2021 alleging that the provident funds were not duly paid by the petitioner Company, thereby, the original authority initiated proceedings under Section 7A of the the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (in short 'EPF Act') as against the petitioner Company and passed order. However, the petitioner Company had not preferred any appeal against the same, subsequently, the authority passed orders under Sections 14B and 7Q of the Act for damages and interest on 31.03.2023. Thereafter, the original authority issued a recovery certificate, dated 20.06.2023 for recovering the said dues under the Revenue Recovery Act, 1864 and thereafter, the fourth respondent passed the impugned prohibitory order dated 21.07.2023. Challenging the same, the above writ petition has been filed.



W.P.No.24475 of 2023

WEB COPY

3. The learned counsel for the petitioner submits that, they are not the principal employer and the principal employer is M/s.Karaikal Port Trust, thereby, the said principal employer has to pay the provident fund dues to the respondent-EPF. However, without initiating action against the principal employer, viz., M/s.Karaikal Port Trust, the respondent-EPF initiated proceedings as against the petitioner Company, which is not sustainable. Accordingly, he prays for allowing the above writ petition.

4. The learned counsel appearing for the respondents 1 to 4 submits that, the petitioner Company has not challenged the proceedings under Section 7A of the act. For non payment of the provident fund dues as per the 7A proceedings, consequential proceedings were initiated under Sections 14B and 7Q of the Act. Further, though the petitioner Company not challenged the 14B and 7Q proceedings, however, challenged the impugned prohibitory order passed by the fourth respondent. He further submits the petitioner Company cannot challenge the impugned prohibitory order passed by the fourth respondent, since it is a consequential order. Accordingly, he



W.P.No.24475 of 2023

prays to dismissal of the above writ petition.

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents 1 to 4 and perused the materials available on record.

6. Admittedly, though the petitioner Company claim that they are not the principal employer and they are not entitled to pay the provident fund dues, since the same has to be paid by the principal employer, however, the EPF authority initiated 7A proceedings as against the petitioner Company. If at all the petitioner Company is aggrieved by action of the EPF authorities, they have to challenge the 7A proceedings in the manner known to law. In the present case, the petitioner Company has challenged the consequential impugned prohibitory order dated 21.07.2023 instead of challenging the proceedings under Sections 7A and 14B of the Act, which is not sustainable. Hence, the prayer sought for by the petitioner Company cannot be acceded to and the writ petition is liable to be dismissed.

7. According, this writ petition is dismissed. No costs. Consequently,



W.P.No.24475 of 2023

the connected miscellaneous petition is closed.

WEB COPY

18.08.2023

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes / No

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W.P.No.24475 of 2023

M.DHANDAPANI,J.

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