



W.P.No.26121 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

CORAM

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

W.P.No.26121 of 2023

and

WMP.No.25512 of 2023

M/s. The Pondicherry State Co-op Bank Ltd.,
Rep. By its Managing Director,
P.B.No.34, East Coast Road(100 Feet Road),
Olandaikeerapalayam, Puducherry-605 004.

...Petitioner

Vs.

The Regional Provident Fund Commissioner – (PDC),
Regional Office,
No.101, 100 Feet Road, Cholan Nagar,
Olandai Keerapalayam, Puducherry – 605 004.

...Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the entire records pertaining to the impugned order passed by the Regional Provident Fund Commissioner (PDC), Regional Office, Puducherry the 1st respondent herein vide his proceedings bearing No.TN/RO/PDY/93/PDC/14B/2023 dated 13.07.2023 and to quash the same.

For Petitioner : Mr.P.Suresh

For Respondents : Mr.P.K.Pannerselvam



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ORDER

This Writ petition has been filed seeking quashment of the order of the respondent dated 13.07.2023 bearing No.TN/RO/PDY/93/PDC/14B/2023.

2. The case of the petitioner is that the petitioner bank is registered under the Co-operative Societies Act, 1912 and is a scheduled Bank. Due to acute shortage of man power, the petitioner bank engaged 24 Juniors Assistants cum Cashier Grade-III & Messengers and 5 Drivers during the month of August 2012 on daily wages basis and they were subsequently regularised by the competent authority after following due procedural formalities with effect from 20.01.2022. While so, the Assistant Provident Fund Commissioner (COMP) Puducherry issued a show cause notice dated 06.09.2023, on the ground that, the petitioner bank failed to remit Contributions and Administrative charges for the above said 29 employees under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (in short 'Act') and defaulted in remittance of their EPF Contributions for the period from 08/2012 to 01/2022 and directed the petitioner bank to remit the same within 10 days. Pursuant to which, on 23.01.2023, the Assistant Provident Fund Commissioner, Puducherry passed an order



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determining the amount due from employers under the said Act and assessed the dues from the petitioner bank as Rs.36,63,668/-. Subsequently, on 02.03.2023, the respondent issued a prohibitory order to the Branch Manager, State Bank of India, for the purpose of recovery of Employer contribution from the petitioner bank. Immediately, the petitioner bank remitted the demand amount of Rs.36,63,668/-, vide bankers cheque bearing No.083747 dated 07.03.2023, upon receipt of which, the respondent sent a letter dated 07.03.2023 to the State Bank of India, Main Branch to withdraw the prohibitory order issued. In such circumstances, the respondent initiated proceedings as against the petitioner bank under Section 7Q and 14B of the said Act, levying interest of Rs.18,75,535/- and damages of Rs.29,11,585/-. On 10.08.2023, the respondent sent a recovery notice to the State Bank of India for recovery of the above said interest levied, without affording any reasonable opportunity to the petitioner bank and pursuant to which, the State Bank of India, debited Rs.18,75,535/- from the petitioner bank. Hence, challenging the order of the respondent dated 13.07.2023, the petitioner has come up with this Writ petition.



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3. Heard learned counsel on either side and perused the materials available on record.

4. Though very many grounds have been raised by the learned counsel on either side at the time of arguments, however, when this Court expressed its opinion that, as against the order passed by the respondent / Original Authority, there is an effective appeal remedy available before the Tribunal under Section 7-I of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 and without exhausting the said appeal remedy, straight away approaching this Court by way of filing this Writ petition is not sustainable, the learned counsel for the petitioner fairly restricted the prayer and sought permission of this Court, to file appropriate Appeal before the Tribunal as per Section 7-I of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 as against the order dated 13.07.2023 passed by the respondent. Learned counsel appearing for the respondent has not expressed any serious objection for the limited relief sought for by the learned counsel for the petitioner.



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5. In view of the aforesaid stand taken by the learned counsel for the petitioner, this Court, without interfering with the order under challenge, grants permission to the petitioner to file appropriate appeal before the Tribunal under Section 7-I of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 within a period of two weeks from the date of receipt of a copy of this order. Upon receipt of such appeal, the Tribunal shall consider the same on merits and in accordance with law and pass appropriate orders within a period of eight weeks thereafter, after affording an opportunity of personal hearing to the petitioner and aggrieved persons, if any.

6. With the above directions, this Writ petition stands disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

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Speaking Order : Yes/ No
Index : Yes/ No
NCC : Yes/ No

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M.DHANDAPANI., J.

skt

To

The Regional Provident Fund Commissioner – (PDC),
Regional Office,
No.101, 100 Feet Road, Cholan Nagar,
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