



W.P.No.17694 of 2017

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.17694 of 2017 and
W.M.P.No.19201 of 2017**

Tamil Nadu Civil Supplies Corporation Limited
EPF Trust,
Represented by its Managing Director,
No.12, Tambusamy Road,
Kilpauk, Chennai - 600 010.

... Petitioner

Vs.

The Regional Provident Fund Commissioner - I,
Employees' Provident Fund Organisation,
Regional Office, No.37, Royapettah High Road,
Chennai - 600 014.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records relating to the order passed in No.RO/CHN/C/TN/8427/order/2017 dated 21.06.2017 on the file of the respondent and quash the same.

For Petitioner	:	Mr.R.Neelakandan Additional Advocate General Assisted by Mr.C.Selvaraj
For Respondents	:	No appearance



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ORDER

The impugned order dated 21.06.2017 in No.RO/CHN/C/TN/8427/order/2017 passed by the respondent is under challenge in the present Writ Petition.

2. The Tamil Nadu Civil Supplies Corporation EPF Trust represented by its Managing Director is the petitioner. By a proceedings of the Regional Provident Fund Commissioner dated 08.04.1976, relaxation of certain provisions of the Employees' Provident Funds Scheme, 1952 pending exemption under Section 17(1) of the Employees' Provident Fund and Family Pension Fund Act, 1952 was granted to the petitioner Corporation subject to certain conditions. It appears that the petitioner Corporation has not complied with the certain conditions and the said relaxation was withdrawn by the respondent by an order dated 17.06.1997. Challenging the same, the Tamil Nadu Civil Supplies Corporation Limited Employees Union has filed Writ Petitions in W.P.Nos.10312 and 10576 of 1997. The said Writ



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Petitions were disposed of by a learned Judge of this Court by order dated 26.10.2007 giving direction to the Regional Provident Fund Commissioner to verify the compliance of the conditions which are mentioned in the order impugned in that Writ Petitions and grant extension of the benefit of relaxation granted by order dated 08.04.1976. Accordingly, by order dated 09.07.2008, the relaxation order was restored. Thereafter, in the show cause notice dated 21.02.2017, the respondent has again asked the petitioner to show cause as to why the relaxation order dated 08.04.1976 eminent be withdrawn in view of the certain violation of the conditions of exemption listed out in the said show cause notice. For the said show cause notice dated 21.02.2017, the petitioner Corporation submitted a reply dated 28.03.2017 stating that the conditions imposed by the respondent have been complied with and certain conditions are being complied with. However, without considering the said reply, the respondent has passed an impugned order dated 21.06.2017 withdrawing the exemption granted to the petitioner Establishment in view of the non-fulfillment of the basic conditions of the exemption, stipulated the Establishment to comply as an un-exempted



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Establishment with effect from 01.07.2017. Challenging the same, the present Writ Petition has been filed.

3. The learned Additional Advocate General appearing for the petitioner Corporation submits that the petitioner is complying with the conditions imposed under Section 17(1)(a) of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 from time to time right from the year 1975. He further submits that the conditions / violations pointed out in the show cause notice dated 21.02.2017 has been complied with. Since the petitioner Corporation is implementing the Public Distribution related policy decisions of the Tamil Nadu Government in which commodities are issued to the public at subsidized rate. Hence, the question of profit or loss to the Corporation does not arise at all. Further, with regard to the conditions of the enrollment of PF members, necessary proposal has already been sent to the Government which fact has not at all been considered by the respondent before passing the impugned order. He further submits that the impugned order and the consequential steps to recover the amount of contribution from



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the petitioner Corporation is against the principles of natural justice. The respondent has passed the impugned order without giving sufficient opportunity to the petitioner. Hence, the learned Additional Advocate General prays for setting aside the impugned order passed by the respondent.

4. Though the counter affidavit has been filed by the respondent as early as on 24.11.2021, there is no appearance on behalf of the respondent when the case is taken up for hearing today.

5. On perusal of the counter affidavit filed on behalf of the respondent, wherein it is averred by the respondent that sufficient opportunities have been given to the petitioner Corporation to set right the violations, but the petitioner Corporation has failed to do the same. Therefore, an order revoking the relaxation of exemption was issued on 21.06.2017 directing the petitioner Establishment to comply as an un-exempted Establishment with effect from 01.07.2017. It is also stated that the respondent has duly followed the established procedure of law and



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has passed the impugned order strictly in accordance with the provisions of the Act / Scheme.

6. This Court has carefully considered the submissions made by the learned Additional Advocate appearing for the petitioner Corporation and perused the materials placed before this Court.

7. This Court considering the fact that the petitioner Establishment is a State-Owned Enterprises engaged in implementing the Public Distribution System (PDS) of essential commodities to the general public at subsidized rates and mere number of employees either directly or indirectly are employed by the petitioner Corporation for implementation of the Public Distribution Scheme in the State. Certain procedural lapses in complying the provision of the Employees' Provident Funds Scheme cannot be put against the Corporation owned by the State as if inturn affects the functioning of the Corporation. Hence, this Court feels that, opportunity can be given to the petitioner to putforth the case and comply with the conditions as stipulated



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by the respondent enabling any action for cancellation of the relaxation granted under paragraph No.79 of the Employees' Provident Funds Scheme, 1952. Hence, the impugned order passed by the respondent dated 21.06.2017 is set aside and the matter is remitted back to the respondent. The respondent is directed to give fresh opportunity to the petitioner Corporation to comply with the conditions as stipulated under the provisions of the Scheme and pass appropriate orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

8. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

11.08.2023

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