



W.P.(MD)No.3426 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.3426 of 2023

and

W.M.P.(MD)No.3186 of 2023

A 2941 Mandikulam Primary Agricultural
Co-operative Bank,
Now called as A 2941, Mandikulam Primary Agricultural
Co-operative Credit Society,
Represented through its Secretary/IC,
Karuvanur Post,
Madurai North Taluk,
Madurai District.

... Petitioner

Vs.

1. The Assistant Provident Fund Commissioner,
Employees Provident Fund Regional Office,
Chokkikulam, Madurai - 625 002.
2. The Recovery Officer,
Office of the EPF Organization,
Chokkikulam, Madurai - 625 002.
3. The Branch Manager,
Madurai District Central Co-operative Bank,
Ayyerbunglow Post,
Madurai - 625 014.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the first respondent vide proceedings No.TN/RO/MD/MDU/24703/Recovery/M8/8F/2022, dated 28.11.2022 and quash the same as illegal and to direct the first respondent to consider the petitioner's representation dated 02.12.2022.

For Petitioner : Mr.CG.Pethanaraj
For Respondents : Mr.R.Ravikumar for R1 & R2
Mr.D.Shanmugaraja Sethupathi
for R3

O R D E R

This Writ Petition has been filed to call for the records of the impugned order passed by the first respondent vide proceedings No.TN/RO/MD/MDU/24703/Recovery/M8/8F/2022, dated 28.11.2022, quash the same as illegal and to direct the first respondent to consider the petitioner's representation, dated 02.12.2022.

2. The case of the petitioner is that the petitioner Society is a Co-operative Institution registered under the Tamil Nadu Co-operative Societies Act. Due to financial crisis and loss, the petitioner could not remit



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the EPF contribution on the due dates and it had paid the contribution belatedly, for which, the first respondent initiated the proceedings under Section 14B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 for damages of Rs.4,29,434/- (Rupees Four Lakhs Twenty Nine Thousand Four Hundred and Thirty Four only) and interest of Rs.4,53,069/- (Four Lakhs Fifty Three Thousand and Sixty Nine only) on 27.01.2020. Aggrieved over the same, the petitioner Society has filed an appeal before the Employees Provident Fund Tribunal in Appeal No.48 of 2020. The Tribunal has granted interim stay to deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) against the order passed under Section 14B of the Act and the same was complied with and intimate to the first respondent on 19.04.2022. Subsequently, the petitioner Society could not pay the contribution for the period from 10/2004 to 09/2006, 05/2019, 07/2019 to 09/2019, 11/2019 and 12/2019. Hence, the first respondent initiated proceedings under Sections 14B and 7Q of the Act, claiming the damages for Rs.1,11,696/- (Rupees One Lakh Eleven Thousand Six Hundred and Ninety Six only) and interest amount of Rs.1,88,903/- (Rupees One Lakh Eighty Eight Thousand Nine Hundred and Three only) and issued



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notice on 28.12.2020. Without adhering to the principles of natural justice, confirmed the order passed on 31.08.2021 and the said order was not communicated to the petitioner and the second respondent has issued a recovery notice on 27.04.2022 to the petitioner. The petitioner's Society has already paid the interest of Rs.2,88,116/- (Rupees Two Lakhs Eighty Eight Thousand One Hundred and Sixteen only) and the remaining balance of Rs.1,66,000/- (Rupees One Lakh Sixty Six Thousand only) is payable to the respondent office and without furnishing the order under Section 14B of the Act, issued a notice for recovery of the amount of Rs.3,00,599/-(Rupees Three Lakhs Five Hundred and Ninety Nine only). Without furnishing the order passed by the first respondent, the second respondent has passed an attachment order on 28.11.2022. Hence, the petitioner has sent a representation to the first respondent office on 02.12.2022 stating that he will pay a sum of Rs.6,39,149/- (Rupees Six Lakhs Thirty Nine Thousand One Hundred and Forty Nine only) in 25 installments, however, the same was not considered by the respondents 1 and 2. Challenging the impugned order dated 28.11.2022, the present Writ Petition.



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3. The learned counsel appearing for the petitioner would submit that the petitioner is ready and willing to pay a sum of Rs.6,39,149/- (Rupees Six Lakhs Thirty Nine Thousand One Hundred and Forty Nine only) in twenty monthly installments.

4. The learned counsel appearing for the respondents submits that he has no objection, if this Court fixes the installments within a reasonable period.

5. Considering the limited request made by the learned counsel appearing for the petitioner and the fact that the petitioner himself has come forward to deposit a sum of Rs.6,39,149/- (Rupees Six Lakhs Thirty Nine Thousand One Hundred and Forty Nine only) in twenty monthly installments, this Court is inclined to stay the impugned notice till the payment of the entire amount with the following directions:

- i. The petitioner is directed to pay a sum of Rs.69,149/- (Rupees Sixty Nine Thousand One Hundred and Forty Nine only) on or before **07.03.2023** and the remaining amount of Rs.5,70,000/- (Rupees Five



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- Lakhs and Seventy Thousand only) shall be paid in nineteen equal monthly installments, i.e., Rs.30,000/- (Rupees Thirty Thousand only) per month. The first installment will commence from April' 2023 and the installment shall be paid on or before the **5th day of every month;**
- ii. After the entire amount is deposited, the respondents may recall the impugned order; and
- iii. In case of any default, the respondents are directed to proceed with the impugned notice in accordance with law.

5. Accordingly, this Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

21.02.2023

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

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Note: Issue order copy by 01.03.2023



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M.DHANDAPANI,J.

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