



W.P.(MD)No.24242 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.24242 of 2023

and

W.M.P(MD) No.20415 of 2023

M/s. The Janakiran Mills Limited,
Represented by its Director,
Srivilliputhur Road,
Sakthi Nagar, Rajapalayam – 626 117,
Virudhunagar District.

...Petitioner

Vs.

1. The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
District Office, AKM Complex,
Old Virudhunagar Road,
Sivakasi – 626 189,
Virudhunagar District.

2. The Manager,
Bank of Baroda,
Rajapalayam Branch,
Rajapalayam,
Virudhunagar District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,



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praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the first respondent in his proceedings No.MD/MDU/DO/SVKS/437/M-09/PDC/8F/2023, dated 18.09.2023 and quash the same as illegal.

For Petitioner : Mr.M.Jerin Mathew

For Respondents : Mr.S.Anwar Sameem
Standing Counsel - for R1

ORDER

The present Writ Petition has been filed challenging the order of recovery passed by the first respondent herein under Section 8F (3) of the Employees' Provident Funds and Miscellaneous Provisions Act.

2. According to the learned counsel appearing for the writ petitioner, they have suffered an order under Section 14-B of Employees' Provident Fund Act, on 18.07.2023 directing them to pay a sum of Rs.5,72,112/- (Rupees Five Lakhs Seventy Two Thousand One Hundred and Twelve only) towards damages. He further contends that an appeal as against the said order has been filed before the appellate authority through registered post on 13.09.2023. He further contends that when the appeal is pending before the appellate authority, the present order of recovery has been passed which is not



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legally sustainable.
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3. The learned counsel appearing for the writ petitioner has relied upon the judgment of this Court reported in **2009 (3) L.L.N 483 (Pyramid Saimira Theatre, Ltd., (Represented by its Senior General Manager) Chennai Vs. The Regional Provident Fund Commissioner, Employees' Provident Fund Organisation, Chennai and another)**, to contend that when the appeal is pending, the authority should not proceed with the recovery proceedings.

4. Per contra, the learned Standing Counsel appearing for the first respondent points out that the appeal is restricted to the claim made by the Employees Provident Fund Organisation under Section 14 B of the Act. The petitioner Mill has not challenged the order passed under Section 7 Q of the Act. Therefore, the respondent is at liberty to proceed with the recovery of the amount.

5. From the deliberations made above, it is clear that the petitioner has already filed an appeal challenging the order passed under Section 14 B of the Act and the appeal is yet to be numbered. Therefore, the respondent



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authorities shall keep the order of recovery relating to damages in abeyance. The respondent authorities have already recovered the interest portion by the proceedings of the first respondent, dated 29.09.2023. It is made clear that the impugned recovery order shall be kept in abeyance only with regard to the damages portion under Section 14 B of the Act. The authority will be at liberty to proceed with recovery proceedings depending upon the result of the appeal. The Central Government Industrial Tribunal is directed to dispose of the appeal as expeditiously as possible. The petitioner shall be permitted to operate the bank account till the disposal of appeal.

6. With the above said observations, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

06.10.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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Note: Issue order copy on 06.10.2023



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To

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R.VIJAYAKUMAR,J.

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