



W.A.No.369 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2024

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MR. JUSTICE P.DHANABAL**

**W.A.No.369 of 2024
and CMP.No.2401 of 2024**

M/s.National Textile Corporation (TN&P) Ltd.,
Manager's Supervisor's and Head Office Staff Provident Fund,
rep.by its Trustee,
NTC House, 35-B, Somasundaram Mills Road,
Coimbatore 641 009. ... Appellant

Vs.

1.The Regional Provident Fund Commissioner-II (Exemptions),
Employees Provident Fund Organization,
Bavishya Nidhi Bhavan PB No.3875,
Dr.Balasundaram Road,
Coimbatore 641 018.

2.The Assistant PF Commissioner (PGHS)
Employees Provident Fund Organization,
Bavishya Nidhi Bhavan PB No.3875,
Dr.Balasundaram Road,
Coimbatore 641 018.

3.National Textile Corporation Ltd.,
rep.by its Chairman cum Managing Director,
5th Floor, Core IV, Scope Complex,
No.7, Lodhi Road,
New Delhi 110 003.

(R3 is suo motu impleaded vide order of this Court dated 12.04.2024)

...Respondents/Respondents



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Prayer: Writ Appeal filed under Clause 15 of the Letters patent to set aside the order in WP.NO.7361 of 2021 dated 01.12.2023.

For Appellant : Mr.R.Shivakumar
for M/s.K.M.Vijayan Associates
For R1 and 2 : Mr.R.Meenakshi, Standing Counsel

J U D G M E N T

(Judgment of the Court was made by J.NISHA BANU,J.)

This Writ Appeal has been preferred challenging the dismissal order passed in W.P.No.7361 of 2021, wherein the appellant herein has filed the writ petition challenging the show cause notice dated 16.12.2020 issued by the Employees' Provident Fund Organization.

2. The appellant Trust is the writ petitioner. Their contention is that the show cause notice was issued for not settling the PF amount to the employee and consequential withdrawal of exemption. The show cause notice should have been sent to the employer and not to the trustee. According to the appellant, they are only keeping the contribution amount of the employer and the employees and therefore they cannot be issued with any show cause notice. Challenging the show cause notice, appellant / writ petitioner filed Writ Petition in W.P.No.7361 of 2021.



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The said writ petition was dismissed by the Writ Court, by order dated 01.12.2023. As against the dismissal order, the appellant / writ petitioner has preferred this appeal.

3. The learned counsel appearing for the appellant would contend that as per Section 17 of the Employees' Provident Fund and Miscellaneous Petition Act, 1952, the appellant Establishment was exempted. They have framed relevant Rules for maintaining its Trust. As per the Rules of the Trust, the show cause notice can be answered only by the employer Management. In the instant one, the Management is not put on notice, it has been sent only to the appellant Trust.

4. The learned counsel appearing for the respondents submitted that the appellants without submitting any reply to the show cause notice, had directly approached this Court. In the revised conditions under Section 17 of the EPF and MP Act, the employer shall mean the person or the authority who has an ultimate control over the affairs of the establishment. In the instant case, the Trust has been formed under the Chairmanship of the employer and it has control over the affairs of the



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establishment and therefore, notice issued to the Trustee cannot be said to be invalid.

5. Heard both sides and also perused the materials available on record.

6. The appellant's contention is that as per the rules of the appellant Company, the show cause notice can be issued only to the Company at New Delhi. The appellant is only a Trust formed by the appellant company, which affairs are under control of the Company at New Delhi. Therefore, if show cause notice is issued to the Company at New Delhi, the same will be replied in an appropriate manner.

7. This Court in the interest of justice, is of the view that the appellant shall forward the show cause notice dated 16.12.2020 to its Corporation viz., National Textile Corporation Ltd., at New Delhi. Since the National Textile Corporation Ltd., is not a party respondent in this Writ Appeal, they are *suo motu* impleaded as 3rd respondent in this Writ Appeal. The said Corporation shall take a call on the above said



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show cause notice dated 16.12.2020 and pass appropriate orders / reply within a period of eight weeks from the date of receipt of a copy of this order, till then the Demand Draft towards the employee contribution drawn by the appellant in favour of the respondents shall be kept in the account of the respondents.

8. This Writ Appeal is disposed of with the above observations. No costs. Consequently connected miscellaneous petition is closed.

(J.N.B,J.) (P.D.B., J.)

12.04.2024

Index : Yes / No
Internet : Yes/No
Speaking order : Non-speaking order
Neutral Citation : Yes/No
sk

To

1.The Regional Provident Fund Commissioner-II (Exemptions),
Employees Provident Fund Organization,
Bavishya Nidhi Bhavan PB No.3875,
Dr.Balasundaram Road,
Coimbatore 641 018.

2.The Assistant PF Commissioner (PGHS)
Employees Provident Fund Organization,
Bavishya Nidhi Bhavan PB No.3875,
Dr.Balasundaram Road,



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Coimbatore 641 018.



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J. NISHA BANU, J.
and
P.DHANABAL, J.

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3.The Chairman cum Managing Director,
National Textile Corporation Ltd.,
5th Floor, Core IV, Scope Complex,
No.7, Lodhi Road,
New Delhi 110 003.

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