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W.P.No.8417 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.04.2024

CORAM:

THE HONOURABLE JUSTICE Dr. JUSTICE D. NAGARJUN

Writ Petition.No.8417 of 2024
and W.M.P.Nos.9377 & 9379 of 2024

M/s.Nadippisai Pulavalar
K.R.Ramasamy Co-Operative Sugar Mills Ltd.,
Rep., through its Managing Director,
Thalainayar, Illanthope Post,
Mayiladuthurai,
Nagapattinam District-609 201.

... Petitioner

Vs.

1. Office of the Additional Central
Provident Fund Commissioner,
(Chennai & Puducherry).
No.37, Royapettah High Road,
Opposite Swagat Hotel, (TN),
Chennai-600 014.

2. The Recovery Officer,
Regional Office, Trichy,
Employee Provident Fund Organization,
P.B.No.588, Sree Complex,
'D' Block, No.18, Madurai Road,
Trichy-625 008.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking to issue a Writ of certiorari, calling for the records of the impugned order passed by the second respondent in file number No.Recovery/CB/RO-



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TRY/27100/CP-3/533/2023-24 dated 25.09.2023 and quash the same.

For Petitioner : Mr.P.Kumerasan,
Additional Advocate General
for M. Alagu Gountham

For Respondent : M/s.M.Palanimuthu

ORDER

This Writ Petition is filed seeking quashment of the impugned order passed by the second respondent in file number No.Recovery/CB/RO-TRY/27100/CP-3/533/2023-24 dated 25.09.2023.

2. The brief facts of the case as submitted by Mr.P.Kumerasan, learned Additional Advocate General are as follows:

The petitioner Sugar Mill,M/s.Nadippisai Pulavalar K.R.Ramasamy Co-Operative Sugar Mills Ltd., was registered on 16.08.1984 under the Co-operative Societies Act, 1961. On account of various issues, the Sugar Mill was completely halted its production since 28.06.2016. The employees who had attained the age of superannuation were eligible of the provident fund and other retirement benefits, however due to the financial crunch of the petitioner Mill, the provident fund was not paid on time, hence the employees approached the second respondent. The second respondent had issued proceedings in CB/TRY/PDC/C-34/27100/2019-20 dated 24.01.2020,



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directing the petitioner mill to pay a sum of Rs.1,35,69,124/- of which a sum of Rs.90,76,965/- was awarded under Section 14 B and Rs.44,91,759/- under Section 7Q of the Employee Provident Fund and Miscellaneous Petition Act. Consequently, the second respondent had also passed an order dated 27.02.2020 under Section 8F of the EFP and MP Act 1952.

3. Aggrieved by the orders of the second respondent, the petitioner mill had preferred W.P.(MD).No.15 of 2021 and this Court had issued a directions to the petitioner mill vide order dated 29.01.2021 to pay the interest in 36 installments and the same is being paid and the last payment was paid on 15.01.2024. However the second respondent had attached the bank account of the petitioners mill vide order dated 04.02.2021 on which the petitioner had sent a communication to the respondent on 11.02.2021 along with the proof of payment, on which the second respondent vide order dated 30.03.2021 had revoked the order of attachment. The second respondent once again vide proceeding in No.CB/TRY/27100/14B/534/2021-22 dated 09.12.2021 had levied damages under Section 14B of the act for the period April 2019 to March 2020 for a sum of Rs.92,679/-.



4. Aggrieved by the same, the petitioner had approached the Central Government Labour Court cum Provident Fund Appellate Tribunal, Chennai and filed E.P.F.A.No.81 of 2020 for discharging 14(B) damages levelled against the petitioner. However on account of death of the learned counsel appearing on behalf of the petitioner due to Covid-19 Pandemic, there was no representation on behalf of the petitioner, thereby, the Appellate Tribunal has dismissed E.P.F.A.No.81 of 2020.

5. Learned Additional Advocate General has further submitted that on account of dismissal of E.P.F.A.No.81 of 2020, the second respondent had passed the order vide file No.Recovery/CB/RO-TRY/27100/CP-3/533/2023-24 dated 25.09.2023 and the same is extracted hereunder:

“Whereas, in exercise of the powers conferred on me under Section 88 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification No.S.O.796 dated 4th March 1997, issued by the Government of India, it is ordered that the M/s.N.P.K.R.R.Co-OP SUGAR MILLS LIMITED, THALAINAYAR, ILANTHOPE POST-609201 bearing Code NO.CB/TRY/27100 be, and is hereby prohibited



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and restrained, until the further order of the undersigned, from receiving from you a certain debt alleged now to be due from you to M/s.N.P.S.CO-OP SUGAR MILLS LIMITED, THALAINAYAR, ILANTHOPE POST-609201.”

6. On account of above referred orders, the petitioner could not operate the said account. It is brought to the notice of this Court by the learned Additional Advocate General that a restoration application was filed before the Appellate Tribunal, to restore E.P.F.A.No.81 of 2020 and the same was considered favourably and E.P.F.A.No.81 of 2020 was restored. Since the impugned orders were passed by the respondent basing on the dismissal of E.P.F.A.No.81 of 2020 and that since E.P.F.A.No.81 of 2020 restored, the impugned orders are required to be intervened.

7. Learned counsel for the respondent has pleaded ignorance of allowing of restoration application.

8. Considering the submissions of both sides and on the basis of facts

Dr.D.NAGARJUN, J.

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and circumstances of this case, this Writ Petition is disposed of quashing the



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impunged orders passed by the second respondent in file number Recovery/

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Consequently, connected miscellaneous petitions are closed.

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Index:Yes/No

Speaking Order: Yes/No

To

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