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W.P.No.13720 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.08.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.13720 of 2024 and
W.M.P.No.14888 of 2024

Social Audit Society of Tamil Nadu,
Rep. by its Director,
Panagal Building,
No.1, Jeenis Road, Saidapet,
Chennai 600 015.

... Petitioner

Vs.

- 1.The Regional Provident Fund Commissioner - II,
Regional Office, Chennai (South),
- 2.The Assessing Officer,
Employees Provident Fund Organisation.
- 3.The Recovery Officer,
Employees Provident Fund Organisation.

All are having office at
No.37, Royapettah High Road,
Regional Office, Chennai (South),
Chennai 600 014.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records from the file of



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the 1st respondent 7Q order passed in Dairy No.239 of 2023 vide No.TN/RO/CHH (South)/PDC/1343821/Div-15/7Q dated 13.03.2024 and the consequential Revenue Recovery Certificate issued by the second respondent in RRC No.231/TN/MAS/1343821/Div15/PDC/2024 dated 15.04.2024 and notice of demand issued by the third respondent vide No.TN/RO/CHN/South/Recovery/ CP1/1343821/Div15/Regl/2024 dated 08.05.2024 and to quash the same as arbitrary and in violation of principles of natural justice.

For Petitioner : Mr.A.Leeban
For Respondents : Mr.M.S.Viswanathan

ORDER

This Writ Petition has been filed for the issuance of a Writ of Certiorari, to call for the records from the file of the 1st respondent 7Q order passed in Dairy No.239 of 2023 vide No.TN/RO/CHH (South)/PDC/1343821/Div-15/7Q dated 13.03.2024 and the consequential Revenue Recovery Certificate issued by the second respondent in RRC No.231/TN/MAS/1343821/Div15/PDC/2024 dated 15.04.2024 and notice of demand issued by the third respondent vide No.TN/RO/CHN/South/Recovery/ CP1/1343821/Div15/Regl/2024 dated 08.05.2024 and to quash the same as arbitrary and violation of principles of natural justice.



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2. Heard Mr.A.Leeban, learned counsel for the petitioner, Mr.M.S.Viswanathan, learned Standing Counsel for the respondents.

3. The learned counsel for the petitioner submitted that the petitioner Society is running with the funds given under the Mahatma Gandhi National Rural Employment Guarantee Scheme. It is further submitted that 100% of the wage component is borne by the Central Government share, paid directly through Rural Development to the Beneficiaries and hence, it was not possible for the petitioner to make payments in time. It is further submitted that when the matter was posted on 17.01.2024 for hearing, it was a Government holiday and later, the matter was adjourned to 28.02.2024. As the hearing was conducted online, the petitioner could not get connected due to technical issues and he had sent a request for seeking adjournment to 29.02.2024. However, without considering the same, the impugned order came to be passed on 13.03.2024, levying a total sum of Rs.15,33,576/- as interest for the delay in remittances made by the petitioner.



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4. The learned Standing Counsel for the respondents submitted that the petitioner can make an application before the Recovery Officer himself, if at all he finds any discrepancy in the calculation of the interest amount and that, he cannot maintain this Writ Petition.

5. However, it is argued by the learned counsel for the petitioner that this Writ Petition is filed only because there is a violation of principles of natural justice. According to the petitioner, on 17.01.2024 it was a holiday, owing to the continuation of Pongal Holiday. Thereafter, the petitioner could not connect online due to technical reasons. It is submitted that the petitioner is willing to deposit half of the 7Q interest amount, if the matter is remanded back to the authorities concerned for a redoing exercise.

6. Since the petitioner has pleaded only a short time for hearing his side of contentions on computation of the interest, I feel one opportunity can be given to the petitioner. As the petitioner was not able



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to make his submission, it would be fair on the part of the respondents to allow him to make his submission provided, the petitioner makes a deposit of half of the interest amount.

7. In view of the above stated reasons, this Writ Petition is disposed and the matter is remitted back to the first respondent for fresh consideration on condition that the petitioner should deposit half of the interest amount i.e., Rs.7,66,788/-, within a period of three weeks from the date of receipt of a copy of this order. On such payment, the impugned order shall stand set aside in order to enable the first respondent to re-appraise the matter in view of the above direction. In the event of failure to deposit the above said amount within the stipulated time, the petitioner will loose the benefit of this order and the impugned order will automatically retain its status without any further reference to this Court. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
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R.N.MANJULA, J.

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To

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