



W.P.No. 37911 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No. 37911 of 2024

and

W.M.P.Nos.41004 & 41008 of 2024

M/s. Ansar Stores,
Represented by its Proprietor,
Mr.Abdul Samad,
No. 129, Hospital Road,
Madhuranthagam - 603 306.

... Petitioner

Vs

1. The Regional Provident Fund Commissioner (C & R),
Employees' Provident Fund Organisation,
Regional Office, Tambaram,
3, Rajaji Salai, Chennai - 600 045.
2. The Enforcement Officer,
Employees' Provident Fund Organisation,
Regional Office, Tambaram,
3, Rajaji Salai, Chennai - 600 045.
3. The Recovery Officer,
Employees' Provident Fund Organisation,
Regional Office, Tambaram,
3, Rajaji Salai, Chennai - 600 045.
4. The Senior Manager and Operational Head
Axis Bank Limited,



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Plot No. 13, Door No.18, Kamaraj Street,
West Tambaram,
Chennai - 600 045.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, Calling for the records in the order passed by the fourth respondent bank made in AXIS/TAMBARAM/65/2024-25 dated 23.10.2024 and consequential order passed in AXIS/1120/Maduranthakam/2024-25 dated 06.11.2024 and following the same the demand notice issued by the second respondent in TB/TAM/Eo/RECY/DIV-512&515/TBTAM0063939000/2024 dated 14.11.2024 demanding an amount of Rs. 48,22,128/- to pay within a period of 3 days and to quash the same as arbitrary illegal and unjustifiable.

For Petitioner : Mr.T.P.Savitha

For R1 to R3 : Mr.R.Thirunavukarasu

ORDER

This writ petition is filed calling for the records on the file of the fourth respondent in respect of the impugned order dated 23.10.2024 and the further order dated 06.11.2024 and the demand notice dated 14.11.2024 demanding an amount of Rs.48,22,128/-.



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2. The learned counsel for the petitioner submits that the petitioner organization did not even employ five employees and cannot be covered under the Act. The respondents have wrongly clubbed with yet another business merely because the business is located in the same premises and have made the petitioner liable. There are no employees to claim a huge sum of Rs.48,22,128/-. The petitioner is already in financial difficulty and are facing SARFAESI proceedings. Earlier, when the petitioner filed writ petition, the matter was challenged even on merits. However, it has been wrongly recorded as if the counsel only wanted instalments. Even the said direction of the earlier writ petition to consider the petitioner's representation has not been complied with. The petitioner made his representation on 22.10.2024 and without disposing of the same, the respondents have not only proceeded to defreeze the account but also proceeded to issue notice with reference to the arrest of the petitioner. Therefore, this Court should interfere.

3. *Mr.R.Thirunavukarasu*, the learned counsel taking notice on behalf of the respondents 1 to 3 would submit that the order passed under Section 7A has already become final. These proceedings are only consequential in



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nature. As far as the representation filed by the petitioner is concerned, the same was filed only on 22.10.2024 and the same will be considered as per the direction granted earlier. There is no prohibition as on date for the respondents to proceed further. As such, it has attached the bank account and since there is not enough amount to satisfy the entire liability, a notice has also been issued with reference to the arrest of the defaulter.

4. I have considered the rival submissions made on either side and perused the material records of the case.

5. An order under Section 7A of the Act was passed on 14.02.2023 itself. That being the case, unless the petitioner challenges the said order in the manner known to law, the petitioner cannot now contest the merits of the claim made by the respondents. It is now well settled that the petitioner has to file an appeal to the Appellate Authority within a period of 60 days. The condonable limit is also prescribed under the Appellate Tribunal Rules as another 60 days.



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6. The Honourable Supreme Court of India, in its earlier judgment in ***CCT v. Glaxo Smith Kline Consumer Health Care Limited***¹, has held that whenever an outer limit is prescribed, this Court under Article 226 cannot extend the limitation period. Further, it has also been held that when there is a statutory remedy along with a prescribed limitation period, a writ petition cannot be entertained after the expiry of the limitation period under Article 226 of the Constitution of India. Further, the petitioner has not even challenged the said order even in the present writ petition. What is challenged is only the consequential proceedings.

7. When the order of fixation of liability has become final, the respondents are bound to proceed further. Only in that context, when the petitioner earlier approached this Court, this Court recorded in paragraph No. 5 that considering the COVID-19 situation, the petitioner's representation could be considered for the grant of installments.

8. It is the contention of the learned counsel appearing for the petitioner that even though the petitioner has made a representation on 22.10.2004, till

¹ (2020) 19 SCC 681



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date no order has been communicated to the petitioner disposing of the said representation. In that view of the matter, when there is an earlier order of this Court dated 06.09.2024, directing the respondents to consider the representation, they ought to have considered the representation and passed the orders thereon. The orders can be passed in accordance with the law, by considering all the grievance of the petitioner with respect to the said representation. In the meanwhile, since the bank account has already been freezed, let that order remain in force. However, further proceedings need not be undertaken without disposing the representation.

9. Therefore, as per the earlier order dated 06.09.2024, let the petitioner's representation be disposed of and the order be communicated to the petitioner, if not already communicated, within a period of six weeks from the date of receipt of the website-uploaded copy of the order without waiting for the certified copy of the order. The status quo as of today, shall be maintained till the disposal of the representation and depending on the outcome of the representation, both parties will be entitled to take recourse in the manner known to law.



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10. In view thereof, the writ petition stands disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

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Neutral Citation: Yes/No
nsl

To

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D.BHARATHA CHAKRAVARTHY, J.

nsI

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