



WP(MD)Nos.1869 & 1874 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP.(MD).Nos.1869 & 1874 of 2020 and
WMP(MD) Nos.1572, 1573 & 1576 of 2020

The ABS Xpress Private Ltd.,
Rep by its Managing Director,
Mr.B.Pyarejan,
Having Office at
No.5, Kajamian Complex first Floor,
TVS tollgate,
Trichirappalli – 20.

... Petitioner
in both Wps

Vs

1.The Commissioner,
Employees' Provident Fund Organisation,
Regional Office,
Sree Complex,
D Block,
No.18, Madurai Road,
Trichirappalli – 8.

2.The Assistant Commissioner,
Employees' Provident Fund Organisation,
Regional Office, Sree Complex,



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D Block,
No.18, Madurai Road,
Trichi – 8.

3.The Enforcement Officer,
Employees' Provident Fund Organisation,
District Office,
Sree Complex, D Block,
No.18, Madurai Road,
Trichirappalli – 8.

... Respondents in
both WPs.

Prayer in WP(MD) No.1869 of 2020: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned proceedings of the first respondent in CB/TRY/1550866/000/Enf 512/Damages,dated 15.11.2018, vide summons, No.Enf.B2/FO-TRY/1550866/2019, dated 04.12.209 and quash the same,

Prayer in WP(MD) No.1874 of 2020: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the impugned proceedings of the second respondent in No.Enf.B2/TN/TR/1550866/RO-TRY/2019 dated 23.12.2019.



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For Petitioner : Mr.R.S.Sivaram
For Respondents : Mr.I.Pinayagash
(In WP(MD) No.1869 of 2020)

For Petitioner : Mr.R.S.Sivaram
For Respondents : Mr.I.Robert Chandrakumar
(In WP(MD) No.1874 of 2020)

COMMON ORDER

The petitioner is the Managing Trustee of "The ABS Xpress Private Ltd.", a Cargo Company, functioning at Trichy, covered under the EPF & Act. The Commissioner, Employees' Provident Fund Organisation, the first respondent herein has initiated an enquiry under Section 7A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter called Act), as against this writ petitioner by issuing summons on 13.11.2018, fixing the date of enquiry as 28.11.2018. However, the petitioner Company has not attended the enquiry. The first respondent has also posted the enquiry on 28.12.2018, 25.01.2019, 11.07.2019, 31.07.2019, 09.09.2019,



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15.10.2019, 04.11.2019 and 27.11.2019. Though he has been provided 13 chances, the petitioner has not appeared for the enquiry, which has been contemplated under Section 7A of the Act. Therefore, EPF Commissioner by invoking his power under Section 7A of the Act r/w 32 of CPC imposed a cost of Rs.5000/-, by the impugned order, dated 23.12.2019 and posted the enquiry on 30.12.2019. As against this order, imposing a cost of Rs.5000/- for his non-appearance, the petitioner has preferred this writ petition. This order, dated 23.12.2019 is challenged by the petitioner in WP(MD) No.1874 of 2020. Since the petitioner has not attended the enquiry, another opportunity was also provided to the petitioner to attend the enquiry, on 27.11.2019. However, the petitioner has not appeared and therefore, a final notice was issued to the petitioner on 04.12.2019, calling upon him to attend the enquiry on 11.12.2019 with a warning to the petitioner in the event if he fails to appear on 11.12.2019, then, the PF authority would proceed further with the enquiry and assess due exparte on the basis of



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the available information. This final notice dated 04.12.2019 is challenged in WP(MD) No.1869 of 2020.

2. When these writ petitions are taken up for hearing, a request has been made on behalf of the petitioner, seeking adjournment.

3. The learned standing counsel appearing for the respondents has raised serious objections for grant of an adjournment that the petitioner without appearing for the enquiry for nearly two years has filed this writ petition and stalled the enquiry for the past four years. Therefore, there is no need to interfere with the impugned order.

4. This Court considered the rival submissions made and also perused the materials placed on record.



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5. These writ petitions are filed challenging the summons and the final notice issued by EPF authority calling upon the petitioner to appear for an enquiry for assessing the amount, as per section 7A of Act. Though the petitioner was provided with 13 chances, the petitioner has failed to appear, even after the receipt of summons. Therefore, by invoking the provision under Section 7A of the Act r/w 32 of CPC, the authority has imposed a cost of Rs.5000/- with a warning. Before this warning, an opportunity was provided to this petitioner on 04.12.2019 with a final notice that the order would be passed exparte. Even after the receipt of this notice, the petitioner has failed to appear for the enquiry. The fact remains that the petitioner has evaded the enquiry proceedings for more than 13 times.

6. In view of the above, these writ petitions are dismissed **with liberty to this petitioner to appear before the first respondent on 18.11.2024 at 10.30 a.m.** In the event, if the petitioner fails to



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appear before the authority on the date and time stipulated by this Court, it is left open to the authority to decide the quantum of contribution, under Section 7A of the Act with the available materials. No costs. Consequently, connected Miscellaneous Petitions are closed.

19.10.2024

NCC : Yes / No.
Index : Yes / No.
Internet : Yes
vrn

Note: Issue order copy on **11.11.2024**



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To
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Employees' Provident Fund Organisation,
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No.18, Madurai Road,
Trichirappalli – 8.
- 2.The Assistant Commissioner,
Employees' Provident Fund Organisation,
Regional Office, Sree Complex,
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B.PUGALENDHI, J.

vrn

Common Order made in
WP.(MD).Nos.1869 & 1874 of 2020 and
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