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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.16805 of 2011
and
MP.No.1 of 2011

N.Narayanan ...Petitioner

Vs.

1. The Regional Provident Fund Commissioner,
Employee's Provident Fund Organisation,
Regional Office,
37, Royapettah High Road, Chennai – 600 014.

2. The Recovery Officer,
Office of the Recovery Officer,
Employees' Provident Fund Organisation,
Regional Office,
37, Royapettah High Road, Chennai – 600 014.

3. The Official Liquidator,
High Court, Madras,
Corporate Bhawan, Second Floor,
29, Rajaji Salai, Chennai – 600 001. ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 2nd respondent in its proceedings No.EPF.CP.25 REF.No.CHN/Recy/TN/52226/Regl/2011 dated 28.06.2011 and quash the same.



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For Petitioner : Mr.P.Raghunathan
for M/s.T.S.Gopalan and Co.

For Respondents : Mr.K.Venkatesan, for R1 & R2
: Mr.S.Gopalakrishnan, for R3

**O R D E R**

This Writ petition has been filed seeking quashment of the proceedings of the 2nd respondent bearing No.EPF.CP.25 REF.No.CHN/Recy/TN/52226/Regl/2011 dated 28.06.2011.

2. The case of the petitioner is that the establishment namely Pyramid Saimira Theatre Limited which was engaged in the business of exhibiting movies and the same was established in the year 2004. In the year 2008, the said company faced certain financial difficulties due to failures in the movie industry. In such circumstances, on 04.12.2008, the Income Tax Department attached all the bank accounts of the said company including all receivables of the company and the company came to a standstill and subsequently, vide order of this Court dated 03.09.2010 made in CP.Nos.281, 104 & 286 of 2009 and etc. case the 3rd respondent was appointed as official liquidator. While so, for non



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payment of PF contribution, proceedings were initiated under Section 7A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (in short 'EPF Act') and an assessment was made for a sum of Rs.1,50,19,318/-. Since the said Pyramid Saimira Theatre Limited failed to remit the said dues, recovery proceedings were initiated and the 2nd respondent, vide present impugned show cause notice dated 28.06.2011, directed the petitioner herein to appear before the authority on 14.07.2011 to show cause as to why the petitioner should not be committed to the civil prison in execution of the certificates. Challenging the same, the petitioner has come up with this Writ petition.

3. Heard learned counsel on either side and perused the materials available on record.

4. Though the petitioner has come up with this Writ petition challenging the show cause notice dated 28.06.2011 issued by the 2nd respondent in connection with the certificates dated 21.07.2010 and 13.12.2010, however, the petitioner nowhere in the affidavit had averred with regard to his relationship with the said Pyramid Saimira Theatre Limited, which creates various doubts in the minds of this Court.



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5. Be that as it may. For non payment of contribution, the PF authorities initiated action under Section 7A of the EPF Act as against the Pyramid Saimira Theatre Limited and for non-remittance of the assessment made u/s. 7A of the EPF Act, the present impugned show cause notice came to be issued, assailing which, the present writ petition has been filed. It is settled position of law that normally the courts would abstain itself from quashing the show cause notice and it is for the petitioner to place his explanation to the show cause notice and it cannot be quashed at the anvil.

6. Further, it is pertinent to note that, as against the order passed under section 7A of the EPF Act, there is an effective appeal remedy available u/s 7I of the EPF Act, which was not exhausted by the petitioner or the said Company and the petitioner has come up with this Writ petition only challenging the subsequent show cause notice and not the order of the Original authority, which is wholly unsustainable and thereby, this Writ petition deserves to be dismissed.



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7. However, liberty is granted to the petitioner to file appropriate appeal before the Appellate Authority under Section 7-I of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 within a period of four weeks from the date of receipt of a copy of this order. Upon receipt of such appeal, the Appellate Authority shall consider the same on merits and in accordance with law and pass appropriate orders within a period of eight weeks thereafter, after affording an opportunity of personal hearing to the petitioner and aggrieved persons, if any. The period during which the case was pending before this Court shall stand excluded for the purpose of computation of limitation, if any.

8. Accordingly, this Writ petition stands dismissed with the aforestated liberty. No costs. Consequently, the connected Miscellaneous petition is closed.

**03.02.2025**

skt

Speaking Order : Yes/ No
Index : Yes/ No
NCC : Yes/ No



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**M.DHANDAPANI, J.**

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