IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.07.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.28660 of 2025

M/s.Poomer Fashions
Represented by its Proprietor Mr.P.Lingasamy
299/B-3, Sasthiri Nagar Extension
Dharapuram Road
Tirupur - 641 604. ... Petitioner

Vs

1.The Regional Provident Fund Commissioner-II
Employees Provident Fund Organisation
District Office
497, I Floor, M/s.Muthusamy & Bros Industrial Complex
Palladam Road, Tirupur - 641 604.

2.The Recovery Officer
District Office, Tirupur.

3.The Manager
Axis Bank
Thangam Complex No.262, Puthur Pirivu Bus Stop
Dharapuram Road, KPN Colony (PO)
Tirupur, Tamil Nadu - 641 608. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent not to encash / refund the Demand Draft forcibly collected from the third respondent Bank Account No.920020041306977 of the petitioner maintained with the third respondent-Bank pursuant to the Recovery Order of the first respondent dated 01.04.2025 in proceeding No.RRC.No.:CBTPR25008/CBCBE2342302000/Div-22/COMP/2025-26/45, and also direct the first respondent to send appropriate communication to the third respondent Bank revoking the order of attachment.

For Petitioner : Mr.Anand Gopalan
for M/s.Advit Law Chambers

For Respondents : Mr.W.M.Abdul Majeed [R1 & R2]

ORDER

The above writ petition has been filed for the following relief :

" To issue a Writ of Mandamus directing the first respondent not to encash / refund the Demand Draft forcibly collected from the third respondent Bank Account No.920020041306977 of the petitioner maintained with the third respondent-Bank pursuant to the Recovery Order of the first respondent dated 01.04.2025 in proceeding No.RRC.No.:CBTPR25008/ CBCBE2342302000/Div-22/COMP/2025-26/45, and also

direct the first respondent to send appropriate communication to the third respondent Bank revoking the order of attachment."

2. The short facts that led to the filing of the writ petition is that on 26.03.2025, the first respondent had initiated proceedings against the petitioner, under Section 7A of the Employees Provident Funds and Miscellaneous Provisions Act, (hereinafter called as 'Act') demanding to pay the EPF contribution for the default period from 03/2021 to 03/2022, which works out to Rs.2,34,93,470/-. The petitioner intends to prefer an appeal against the order of the first respondent dated 26.03.2025. However, within a short span of five days, the second respondent issued recovery proceedings on 01.04.2025. The same has been agitated by the petitioner contending that the statutory period for preferring an appeal is 60 days and therefore, the proceedings of the second respondent should not be pursued further. The second respondent also did not precipitate the issue at that point of time.

3. Thereafter, on 20.05.2025, the petitioner had approached the Central Government Industrial Tribunal with his appeal papers along with two petitions, one seeking waiver of the EPF contributions and the other to stay the proceedings of the first respondent dated 26.03.2025.

Subsequently, the appeal was taken on file and numbered as EPFA No.146 of 2025. The said appeal came up for admission before the appellate Tribunal on 18.07.2025 and the matter stood adjourned to 20.08.2025 for certain reasons.

4. In the meantime, without waiting for the Tribunal's decision, the first respondent had initiated proceedings under Section 8F(3)(i) of the Act and required the petitioner's banker, the third respondent herein, to issue a demand draft for the alleged entire EPF contribution amount. A copy of which was also forwarded to the second respondent for further follow-up. On coming to know about this from his bankers, the petitioner went to the office of the first respondent and intimated them about the pendency of the appeal before the Tribunal and also persuaded them not to initiate any recovery proceedings. The petitioner-company had also sent a legal notice to the respondents on 25.07.2025 through email requesting the first respondent not to take any coercive action till the next hearing date of the appeal i.e., on 20.08.2025. But the second respondent had forcibly obtained the demand draft for Rs.2,34,93,740/- from the third respondent-banker on 25.07.2025 itself. Subsequently, on coming to know that the demand draft had been

obtained from the petitioner's banker, the petitioner had sent yet another email on 25.07.2025, requesting the first respondent not to encash the same.

5. It is brought to the notice of the court that the petitioner considering the urgency in the matter, had requested the Tribunal and pre-poned the date of hearing of the appeal to 29.07.2025, on which date, they also had obtained an order of stay of the proceedings of the first respondent until further orders from the Tribunal. The said information was communicated to the respondents herein through email on 29.07.2025, in which they had also contended that the petitioner has filed a writ petition for mandamus directing the first respondent not to encash or refund the demand draft which was forcibly obtained by his from the petitioner's banker. Apprehending that the first respondent may proceed with the encashment of the said demand draft, the present writ petition has been filed seeking a mandamus..

6. The learned counsel appearing for the respondents 1 and 2 would submit that the said amount which is the subject matter of writ petition, has been sent to the account of the petitioner, but this was refuted by the petitioner alleging that till this afternoon (i.e., 2.30 p.m., on 30.07.2025), the

alleged Demand Draft has not reached the bankers, the third respondent.

7. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents 1 and 2.

8. The contention of the petitioner is that the order of the first respondent under Section 8F(3)(i) of the Act directing the third respondent to pay the said sum of Rs.2,34,93,470/- has been passed on 25.07.2024 and on the very same day, even before the order was communicated to the petitioner herein, the third respondent, who is the banker of the petitioner herein was compelled to issue to demand draft and accordingly, the third respondent had issued the demand draft for the said entire amount and the same has been sent for encashment by the first respondent. It is also contended by the petitioner that while entertaining the appeal, the Tribunal may either direct the aggrieved organization to pay 75% of the EPF contribution amount as a pre-condition, or it may waive the entire amount, which is purely at Tribunal's discretion. In the petitioner's present case, the Tribunal had entertained the appeal by waiving off 50% of the EPF contribution amount as a pre-condition and it only directed the petitioner to

deposit 25% of the EPF contribution. In such scenario, while the appeal preferred by the petitioner is pending consideration, the first respondent had collected the entire EPF contribution from its banker, which causes a huge financial constraint to the petitioner herein.

9. Taking into consideration the contentions of the petitioner and also the fact that the Tribunal has granted stay in appeal in EPFA.No.146 of 2025 preferred by the petitioner, the respondents 1 and 2 are directed not to encash the demand draft which has been obtained from the petitioner's banker, the third respondent, if not already encashed, till the stay petition in EPFA.No.146 of 2025 is heard and decided by the Tribunal. In case it is encashed, since the encashment is post the stay order, the respondents 1 and 2, shall refund 60% of the amount to the petitioner and retain 40% of the amount encashed. It is needless to state that it is open to the respondents 1 and 2, to raise all its defence before the Tribunal and the refund of the amount will not operate to their detriment.

10. With the above direction, the writ petition is disposed of. No costs.

30.07.2025

Index : Yes / No
Neutral Citation : Yes / No
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P.T. ASHA, J,

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