



W.P.No.46533 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2025

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ**

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Central Board of Trustees
Represented by its Regional Provident Fund Commissioner-II (Legal)
Employees Provident Fund Organisation
Regional Office, Tambaram
No.3, Rajaji Salai, Tambaram
Chennai-600 045. ... petitioner

Vs.

Mr.M.Murugesan
Liquidator of M/s.Velohar Infra Private Limited
Block-C, 3D, Aishwarya Apartments
102/103, Barakka Road
Secretariat Colony, Kilpauk
Chennai, Tamil Nadu – 600 010. ... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India

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praying, Writ of Certiorari, to call for the records and quash the order dated 08.04.2025 passed by the Hon'ble National Company Law Tribunal Bench II, Chennai in I.A.(IBC)/855/(CHE)2024 in CP/114(IB)/2018.

For petitioner : Ms.Revathi Manivannan

ORDER

(Order of the Court delivered by MOHAMMED SHAFFIQ, J.,)

The present writ petition is filed challenging the order dated 08.04.2025, whereby the Tribunal failed to recognize that the petitioner is a secured creditor within the meaning of Section 3(30) of the Insolvency and Bankruptcy Code, 2016.

2. Ms.Revathi Manivannan, learned counsel for the petitioner submitted that the above order suffers from error as the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, creates a statutory charge over the employer's assets for unpaid dues. Hence, the



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petitioner would qualify as 'Secured Creditor' as this statutory charge would fall within the definition of security interest.

3. When we posed the counsel with a question as to whether this order of the Tribunal is appealable before the National Company Law Tribunal under Section 61 of the Insolvency and Bankruptcy Code, 2016. The learned counsel for the petitioner would submit it is appealable, however, issue raised warrants interference by this Court in exercise of its powers under Article 226 of the Constitution of India.

4. We are not impressed with the above submission of the learned counsel for the petitioner, since it is a settled position of law that whenever there is a statutory remedy, this Court would be loathe in entertaining the writ petition, more so when the petitioner has availed the statutory remedy before the Tribunal. In this regard it may be relevant to refer to the judgment of the Supreme Court in the case of United Bank of India v. Satyawati Tondon, reported in (2010) 8 SCC 110, wherein it



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was held as under:

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“47. In Thansingh Nathmal v. Supdt. of Taxes [AIR 1964 SC 1419 : (1964) 6 SCR 654] the Constitution Bench considered the question whether the High Court of Assam should have entertained the writ petition filed by the appellant under Article 226 of the Constitution questioning the order passed by the Commissioner of Taxes under the Assam Sales Tax Act, 1947. While dismissing the appeal, the Court observed as under: (SCC p. 1423, para 7)

“7. ... The jurisdiction of the High Court under Article 226 of the Constitution is couched in wide terms and the exercise thereof is not subject to any restrictions except the territorial restrictions which are expressly provided in the articles. But the exercise of the jurisdiction is discretionary: it is not exercised merely because it is lawful to do so. The very amplitude of the jurisdiction demands that it will ordinarily be exercised subject to certain self-imposed limitations. Resort to that jurisdiction is not intended as an alternative remedy for relief which may be obtained in a suit or other mode prescribed by statute. Ordinarily the Court will not entertain a petition for a writ under Article 226, where the petitioner has an alternative remedy, which without being unduly onerous, provides an equally efficacious remedy. Again the High Court does not generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce which the writ is claimed. The High Court does not therefore act as a court of appeal against the decision of a court or



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tribunal, to correct errors of fact, and does not by assuming jurisdiction under Article 226 trench upon an alternative remedy provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit by entertaining a petition under Article 226 of the Constitution the machinery created under the statute to be bypassed, and will leave the party applying to it to seek resort to the machinery so set up.”

5. In view thereof, this Court finds no reason to entertain the present writ petition. Accordingly, this Writ Petition stands dismissed.

There shall be no order as to costs.

[S.M.S., J.] [M.S.Q, J.]
28.11.2025

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Speaking / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No



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