BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.8663 of 2022

The Rajas International School,
Rep by its Chairman,
Dr.S.A.Joy Raja,
Ozhginasery, Nagercoil,
Kanyakumari District – 629 001. ... Petitioner

Vs

1.The Regional Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Regional Office, No.65-A, Water Tank Road,
No.65-A, Water Tank Road,
Nagercoi,
Kanyakumari District – 629 001.

2.The Branch Manager,
Axis Bank,
Nagercoil Branch,
Thayammal Harris Towers,
No.42, Court Road,
Nagercoil, Kanyakumari District – 629 001.

3.The Chairman,
Rajas Matriculation School,
Aralvaoimozhi,
Kanyakumari District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondent Nos.1 and 2 to consider the petitioner's representation dated 24.03.2022 and thereby refund the wrongly debited amount of Rs.10,03,532 from the petitioner's account lying with the 2nd respondent bearing account No. 405010100034964 within the time limit stipulated by this court.

For Petitioner	: Mr.Prithivraj.PR
For Respondent No.1	: Mr.A.John Xavier
For Respondent No.2	: Mr.M.Senthil Kumar
For Respondent No.3	: No appearance

ORDER

The petitioner an international school is covered under the Employees' Provident Funds and Miscellaneous Provisions Act [the EPF Act]. They are having a PF Code No. MD/NKL/7538 and it was effected from 05.05.2008. According to the petitioner, all the EPF contribution dues to the EPF authority were duly remitted by the petitioner. However, the respondent EPF authority passed an order under Section 8F of the EPF Act, dated 16.03.2022 to recover a sum of Rs.10,01,580/- from the bank account of the petitioner lying with 2nd respondent for the EPF dues of the 3rd respondent Rajas Matriculation School.

2.The case of the petitioner is that the 3rd respondent / Rajas Matriculation School is a different entity and the petitioner is in no way connected with the 3rd respondent. However, for the EPF liability of the 3rd respondent, 1st respondent has erroneously passed an order under Section 8F of the EPF Act directing the petitioner's bank to recover the amount and a sum of Rs.10,01,580/- has been recovered towards the liability of the 3rd respondent. Therefore the petitioner has filed this writ petition seeking a writ of mandamus directing the 1st and 2nd respondents to refund a sum of Rs.10,01,580/- which was erroneously recovered from the petitioner's bank account for the EPF liability of the 3rd respondent.

3.The learned counsel for the petitioner submits that the petitioner and the 3rd respondent are different entities and they are having separate PF codes. The 3rd respondent is a separate management and is having separate PF code No.MD/NKL/79262. For the liability of the 3rd respondent, the petitioner cannot be fastened with recovery order. Therefore, this amount which was wrongly recovered from the petitioner's bank account for the liability of the 3rd respondent, necessarily has to be refunded by the respondent Nos.1 and 2.

4.The learned counsel for the 2nd respondent bank submits that since the recovery order under Section 8F of the EPF Act was issued by the statutory authority, the same was recovered, it was remitted to the account of the EPF authority and that they would abide by the orders of the court.

5.The learned counsel for the 1st respondent EPF authority submits that though the petitioner and 3rd respondent institutions are different in names, both institutions are run by one educational trust by name Selvam Educational and Charitable Trust, which is having common PAN No.AACTS417OR. Therefore, according to the learned counsel, the recovery of amount for the liability of the 3rd respondent could not be found fault. The 3rd respondent establishment failed to pay the EPF contribution for the period from May 2018 to April 2019 and therefore, an enquiry under Section 7A of the EPF Act was contemplated and liability was determined by order dated 29.11.2021 as Rs.10,01,580/-. The 3rd respondent institution filed review application under Section 7B of the EPF Act and the same was rejected on 15.03.2022. Thereafter the recovery order under Section 8F of the EPF Act was passed. The learned counsel has also relied on the judgment of this court in ***M/s.Kanyakumari Medical Mission Vs EPF Organisation and others, (2023 LLR 90)***.

6.This court has considered the rival submissions made.

7.By recovery order under Section 8F of the EPF Act, a sum of Rs.10,01,580/- was recovered from the bank account of the petitioner lying with the 2nd respondent. This amount was recovered for the liability of the 3rd respondent. The issue before this Court is whether the liability of the 3rd respondent can be recovered from the 1st respondent.

8.The contention of the EPF authority is that both institutions are run by same educational trust by name Selvam Educational and Charitable Trust with common PAN No.AACTS417OR. Therefore, this court is not inclined to accept the contention of the petitioner for issuing a mandamus as prayed for. Moreover very same issue has already been elaborately discussed by this court in the above cited judgment as under:

"6.The learned counsel for the petitioner emphasized that the petitioner and the seventh respondent are independent establishments and there is no commonality between them and that they cannot be clubbed. It is necessary to note here that the PF authority is not clubbing two establishments for the purpose of assessment. The petitioner and the seventh respondent are assessed separately under separate codes. Here, the question is something else. It pertains to the validity of the recovery action. To answer this question, it is necessary to have a look at some of the provisions of the Act.

7.The expression "employer" has been defined in Section 2(e) of the Act as follows :

"[(e)"employer" means— (i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948), the person so named; and

(ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where

the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent."

Section 2A of the Act as follows :

"2A. Establishment to include all departments and branches.—For the removal of doubts, it is hereby declared that where an establishment consists of different departments or has branches, whether situate in the same place or in different places, all such departments or branches shall be treated as parts of the same establishment."

Section 8B of the Act is as follows :

"8B.Issue of certificate to the Recovery Officer.—(1) Where any amount is in arrear under section 8, the authorised officer may issue, to the Recovery Officer, a certificate under his signature specifying the amount of arrears and the Recovery Officer, on receipt of such certificate, shall proceed to recover the amount specified therein from the establishment or, as the case may be, the employer by one or more of the modes mentioned below:—

(a) attachment and sale of the movable or immovable property of the establishment or, as the case may be, the employer;

(b) arrest of the employer and his detention in prison;

(c) appointing a receiver for the management of the movable or immovable properties of the establishment or, as the case may be, the employer:

Provided that the attachment and sale of any property under this section shall first be effected against the proportion of the establishment and where such attachment and sale is insufficient for recovering the whole of the amount of arrears specified in the certificate, the Recovery Officer may take such proceedings against the property of the employer for recovery of the whole or any part of such arrears.

(2)The authorised officer may issue a certificate under sub-section (1), notwithstanding that proceedings for recovery of the arrears by any other mode have been taken."

As per Section 2(e) of the Act, the authority which has the ultimate control over the affairs of the establishment would be the employer. As per Section 8B, only after proceeding against the movable or immovable property of the establishment, proceedings can be taken *against the property of the employer for recovery of the shortfall. If the petitioner and the seventh respondent are juristic personalities or legal entities, then, it would have been possible to accept the contention of the petitioner's counsel that only after first proceeding against the seventh respondent, the PF authority can think of the other options. Since both are not having any legal character, they can be treated only as parts of the diocese. For the purpose of assessment, they can be separate entities. But for the purpose of recovery, they will be considered and treated only as constituent parts of a single establishment, namely, Kanyakumari Diocese of CSI. The monies lying in the bank account of the petitioner-institution also belongs to CSI, Kanyakumari Diocese. Therefore, when the first respondent has taken recovery action, it must be construed as taking action only against the establishment concerned.*

8.The expression "establishment" has not been defined in Act 19 of 1952. ***In L.N.Gadodia & Sons v. RPFC (2011) 13 SCC 517,*** *it was argued that only different departments or branches of an establishment can be clubbed together, but not different establishments altogether. The contention was repelled and it was held as follows :*

"23.....what is to be noted is that, this is an enabling provision in a welfare enactment. The two Petitioners may not be different departments of one establishment in the strict sense. However, when we notice that they are run by the same family under a common management with common workforce and with financial integrity, they are expected to be treated as branches of one establishment for the purposes of Provident Funds Act. The issue is with respect to the application of a welfare enactment and the approach has to be as indicated by this Court in Sayaji Mills Ltd. (1984 Supp SCC 610). The test has to be the one as laid down in Associated Cement Company (AIR 1960 SC 56) which has been explained in Management of Pratap Press (AIR 1960 SC 1213)."

The aforesaid decision was followed in ***Shree Vishal Printers Ltd. vs. Fund Commissioner, Jaipur and Ors (2019) 9 SCC 508.*** *The ratio is that it is impossible to lay down any one test as an absolute and invariable test for all cases. The real purpose of the test would be to find out the true relation between the parts, branches, unit etc., Unity of ownership, unity of management and control, unity of finance, unity of labour, unity of employment and unity of functional integrality are the* *tests which courts apply. The Hon'ble Supreme Court in the latest judgment stressed the fact that the Act being a beneficial legislation, the approach of the court must be to ensure that liability under the Act is not evaded. I therefore hold that while the petitioner and the seventh respondent can be two separate entities for the purpose of assessment, they are to be treated as constituent parts of a single establishment for the purpose of recovery under Section 8 of the Act. The first respondent rightly adopted such an approach and it cannot be faulted. As already observed, the situation would have been probably different if the writ petitioner is a legal entity. The case-laws relied on by the learned counsel for the petitioner relate to clubbing for the purpose of assessment and that is why, they may not be useful to decide the issue on hand. For the reasons mentioned above, it is not possible to invoke Section 2(e) of the Act also so as to bring the petitioner's case within the protection set out in the proviso to Section 8B(1) of the Act. CSI, Kanyakumari Diocese is an umbrella organization whose limbs are the petitioner and the seventh respondent. They would constitute a single establishment for the purpose of recovery."*

9.In view of the above discussion and the above cited judgment, this court is not inclined to entertain this writ petition. Accordingly, this writ petition is dismissed. No costs.

24.10.2025

Internet : Yes / No

DSK

To

1.The Regional Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Bhavishya Nidhi Bhawan,
No.1, Lady Doak College Road,
Sivakasi, Chokkikulam, Madurai District – 625 002.

2.The Recovery Officer,
Employees Provident Fund Organisation,
District Office, AKM Complex,
Old Virudhunagar Road,
Sivakasi, Virudhunagar District – 626 189.

3.The Branch Manager,
State Bank of India,
Sattur, Virudhunagar District – 626 124.

B.PUGALENDHI, J.

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