



W.P.(MD)No.20517 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.20517 of 2019
and W.M.P.(MD)No.17148 of 2019

M/s.Madurai Coats Private Limited,
Rep. by its Mill Manager K.A.Chidambaram,
83-88, Beach Road,
Tuticorin – 628 001.

... Petitioner

Vs.

1.Regional Provident Fund Commissioner – II,
Employees Provident Fund Organisation,
Regional Office, Bhavishya Nidhi Bhawan,
N.G.O. “B” Colony, Tirunelveli-627 007.

2.The Branch Manager,
State Bank of India,
Siruthozhil Branch (61071),
No.306 Beach Road,
(Near Sub Collector Office),
Tuticorin - 628 001.

3.T.Chandraselvi

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... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in proceedings No.CBE/RO-TNY/EDLI-Exem/187/7881/2019 and quash its order dated 13.9.2019 and forbear the 1st respondent from initiating any recovery proceedings against the petitioner in respect of EDLI amount of Rs.6,14,306/- from the petitioner.

For Petitioner : Mr.T.Ravichandran

For Respondents : Mr.M.Mahaboob Athiff for R1

Mr.C.Karthick for R2

Mr.M.Vijaysundar for R3 & R4

ORDER

This Writ Petition has been filed aggrieved by the proceedings No.CBE/RO-TNY/EDLI-Exem/187/7881/2019 dated 13.09.2019, whereby the first respondent required the petitioner to pay an amount of Rs.6,14,306/- being an amount paid in favour of respondent No.3 towards EDLI.



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2. According to the learned counsel for the petitioner, the respondent No.3 is not entitled for the said amount of Rs.6,14,306/-, but she was paid mistakenly.

3. A perusal of the impugned proceeding does not indicate the provisions under which the said proceeding was issued. Without disclosing the source of power for issuing the impugned proceeding, the respondent No.1 indicated that in case, the petitioner fails to pay the said amount within 7 days, action would be initiated for recovery of the said amount under Section 8G of the Employees' Provident funds and Miscellaneous Provisions Act, 1952. When the matter is taken up for consideration, this Court has specifically asked the learned counsel for the respondent No.1 to source the power under which the impugned proceeding came to be issued. The learned counsel for the respondent No.1 is unable to trace out the power for issuing the impugned proceeding. All the proceedings under the Act 1952 are only empower the respondents 1 and 2 to recover the amounts due towards provident fund, towards penalty, interest, damages etc., but not for recovery of the amounts of the nature, which is



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impugned in the present Writ Petition. In the absence of any such specific power conferred upon the respondents 1 and 2, the impugned proceedings cannot be sustained under law. In case, if there is any erroneous payment of amounts in favour of respondent No.3 by respondent Nos.1 and 2, it is always open for the respondents 1 and 2 to invoke the common law remedy for recovery of such an amount from the respondent No.3 and under no circumstances, the respondents 1 and 2 are entitled to issue the proceedings, like the one impugned in the present Writ Petition.

4. Further, it is also brought to the notice of this Court by the learned counsel for the petitioner that the respondents 1 and 2 have already filed a suit in O.S.No.270 of 2021 before the learned Subordinate Court, Tuticorin for recovery of the amounts claimed under the impugned proceedings against the petitioner and respondent No.3.

5. In the light of the above, the impugned proceedings cannot be sustained and accordingly, the same is quashed and the Writ Petition is allowed.



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Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Neutral Citation: Yes / No

Index : Yes / No

vsm

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