

(1968) 06 KL CK 0007
In the High Court Of Kerala

A.T. Union (Private) Ltd.

APPELLANT

Vs

Regional Provident Fund Commissioner and Others

RESPONDENT

Date of Decision : 14-06-1968

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 7A, 8

Citation : (1968) 2 LLJ 465

Hon'ble Judges : V. Balakrishna Eradi, J

Bench : Single Bench

Judgement

V. Balakrishna Eradi, J.—The petitioner-company which is engaged in the business of motor-transport was served with a notice of demand evidenced by Ex. P.1 dated 15 November 1965 by the deputy tahsildar, Alwaye, calling upon it to remit an amount of Rs. 20,767.30 being arrears of employees' provident fund contribution due by the company. The petitioner was informed by the aforesaid notice that if the amount was not paid within seven days of the service thereof proceedings for realization of the same by attachment and sale of the petitioner's properties would be taken under the Revenue Recovery Act. Subsequently on 10 July 1966 the petitioner was served with another demand dated 4 July 1966 for a sum of Rs. 250,05 also stated to be due as arrear of employees' provident fund. This notice of demand was also issued by the deputy tahsildar purporting to act under the provisions of the Travancore-Cochin Revenue Recovery Act. On 27 August 1966 a bus hearing registration No. K.L.E. 78 belonging to the petitioner-company was attached and seized by respondent 4, the attachment and seizure having been effected for the realization of the demands under Exs. P. 1 and P. 2. The petitioner has thereupon come up to this Court with this original petition seeking to quash the demands, Exs. P. 1 and P. 2, and the attachment proceedings evidenced by the mahazar, Ex. P. 3.

2. The main contention advanced before me by the learned Counsel for the petitioner is that prior to the service of the demands evidenced by Exs. P. 1 and P. 2 the petitioner had not be served with any order passed by the Employees'

Provident Fund Commissioner u/s 7A of the Employees' Provident Funds Act, 1952 (hereinafter referred to as the Act). It is the definite case put forward by the petitioner that no such order has in fact been at all passed against his and that in the absence of an order being made after affording an opportunity to the petitioner of representing his case as required by Section 7A(8) of the Act, the authorities have no jurisdiction to make any demand for contribution from the petitioner. That the making of an order under Sub-section (8) of Section 7A(8) of the Act, the authorities have no jurisdiction to make any demand for contribution from the petitioner. That the making of an order under Sub-section (8) of Section 7A determining the amount due from any employer is a condition precedent for serving a demand on the employer for payment of contribution is clear from a reading of Sections 7A and 8 of the Act.

3. The learned Government Pleader appearing on behalf of the respondents has very frankly and fairly stated before me that although the requisite opportunity envisaged by Sub-section (8) had been afforded to the petitioner by the Provident Fund Commissioner, no specific order determining the quantum of the contribution due from the employer had thereafter been passed in this case. In these circumstances, it seems to be to be clear that the demand made under Exs. P. 1 and P. 2 cannot be sustained. Exhibits P. 1 and P. 2 as well as the proceedings taken for the attachment of the petitioner's but evidenced by Exs. P.3 will therefore stand quashed.

4. It is, however, made clear that nothing said in this order will in any manner preclude the Regional Provident Fund Commissioner from taking appropriate steps for making the order contemplated by Sub-section (8) of Section 7A determining the quantum of contribution due from the petitioner and thereafter taking further steps for the recovery of such contribution.

5. The original petition is allowed to the extent indicated above. There will be no order as to costs.