

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Wednesday, the Twenty Third day of January Two Thousand Nineteen

PRESENT

THE HON`BLE MR JUSTICE D.KRISHNAKUMAR

WP No.1706 of 2019

and WMP.NO.1906/2019

INDIAN BANK [PETITIONER IN BOTH THE PETITIONS]
REP.BY ITS ASSISTANT GENERAL MANAGER,
MR.S.BALU, NO.69, FIRST AVENUE,
ASHOK NAGAR, CHENNAI - 600 083.

Vs

1 THE RECOVERY OFFICER [RESPONDENTS IN BOTH THE PETITIONS]
EMPLOYEES PROVIDENT FUND ORGANISATION,
37, ROYAPETTAH HIGH ROAD,
CHENNAI - 600 014.

2 M/S.IMAYAM PUBLICATIONS PVT.
LTD.,, NO.22, 1ST CROSS STREET,
2ND AVENUE, ASHOK NAGAR, CHENNAI - 600 083.

Writ Petitions under Article 226 of the Constitution of India
praying that in the circumstances stated therein and in the
respective affidavits filed therewith the High Court will be
pleased to issue a Writ of Certiorari

(i) Calling for the records relating to proceedings bearing
No.CHN/TN/1349532/RECOVERY/DIV 21/REGIONAL/2018 dated 12.09.2018 on
the files of the 1st respondent and quash the same. (in
WP.1706/2019) and;

(ii) To stay all further proceedings pursuant to the
proceedings bearing No.CHN/TN/1349532/RECOVERY/DIV 21/REGIONAL/2018
dated 12.09.2018 on the files of the 1st respondent (in
WMP.1906/2019) pending disposal of the WP.1706/2019 respectively.

Order : These petitions coming on for orders upon perusing
the petitions and the respective affidavits filed in support
thereof and upon hearing the arguments of MRS.RITA CHANDRASEKAR,
FOR M/S.AIYAR AND DOLIA, Advocate for the petitioner in both the
petitions in both the petitioner the court made the following
order:-

Notice of motion returnable in four weeks. Private Notice is also permitted.

2. It is submitted by the learned counsel for the Petitioner/Indian Bank that the office of the 1st respondent issued show cause notice on 19.07.2018 and 10.08.2018 to show cause as to why it should not be declared as deemed defaulter for the 2nd respondent establishment and why recovery proceedings should not be initiated under Section 8F(3) of the EPF Act. The Petitioner Bank submitted a reply to the 1st respondent stating that unless the Bank is a debtor, there could be no attachment and that an overdraft account does not render the Bank a debtor.

3. The learned counsel for the Petitioner/Bank pointed out that in the impugned order passed by the 1st respondent dated 12.09.2018, it is directed that the Petitioner Bank to pay by way of a Demand Draft favouring the Regional Provident Fund Commissioner, Chennai-14, the amount equivalent to the total of the credits received in this account after the date of attachment, and from and out of any future credits, to the extent of the amount specified in the order issued under Section 8F of the Act, failing which the Bank shall be declared as Deemed Defaulter for the 2nd respondent-establishment and recovery proceedings shall be initiated under Section 8F(3) Clause (IX) and (x) of the Act, 1952.

4. The learned counsel for the Petitioner further contended that the 1st respondent cannot claim priority over the debts payable to the Petitioner as a secured creditor for the reason that Recovery of Debts due to Banks and Financial Institutions Act, 1993, being a special enactment, will have priority over Section 11 (2) of the EPF. It is further stated that impugned order is passed by the 2nd respondent, without jurisdiction.

5. Considering the facts and circumstances of the case, there shall be an order of interim stay for a period of four weeks.

6. Post after four weeks.

-sd/-

23/01/2019

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE RECOVERY OFFICER
EMPLOYEES PROVIDENT FUND ORGANISATION,
37, ROYAPETTAH HIGH ROAD,
CHENNAI - 600 014.

C.C. to M/S.AIYAR AND DOLIA Advocate Sr.No.931

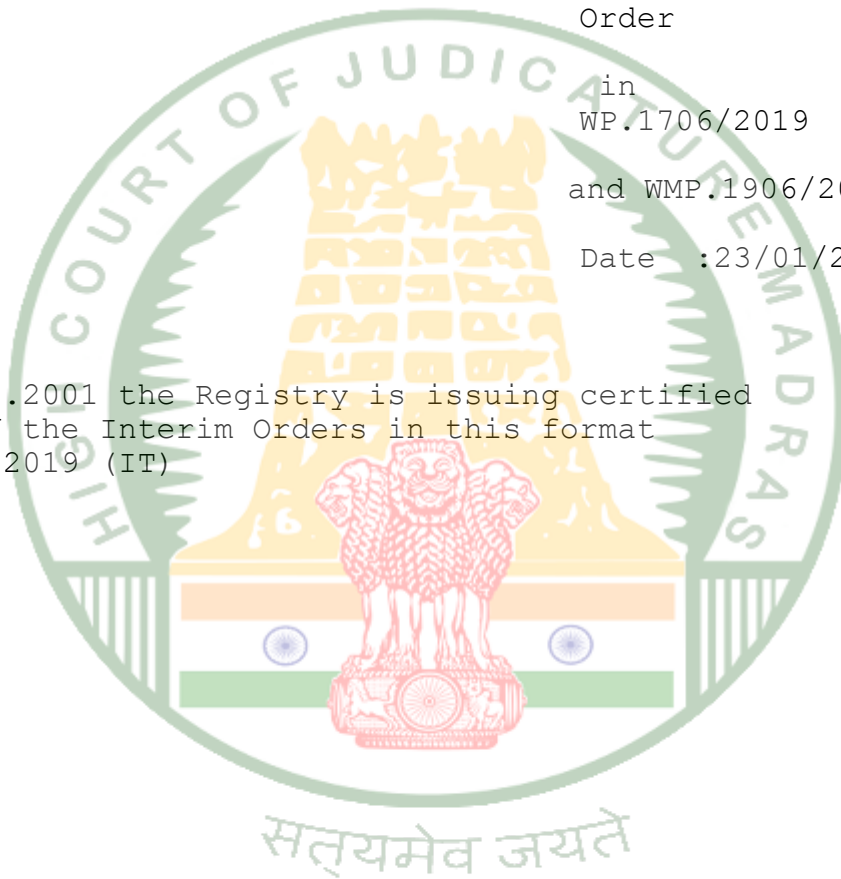
Order

in
WP.1706/2019

and WMP.1906/2019

Date :23/01/2019

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
RRI 28/01/2019 (IT)



WEB COPY