

Reserved on : 01.10.2020

Pronounced on : 27.01.2021

**W.P. Nos. 1706 and 31827 of 2019
and
W.M.P. Nos. 1906 and 32065 of 2019
(through video conference)**

P.D. AUDIKESAVALU, J.

The Petitioners are banks which have extended credit facility by way of overdraft to their respective customers. The said customers of the Petitioners have committed default in repayment of their dues to the Petitioners as well as contributions towards provident fund under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the 'EPF Act' for short). The authorities under the EPF Act had passed garnishee orders under Section 8-F of the EPF Act attaching the overdraft accounts of the said customers with the respective Petitioners, which are challenged in these Writ Petitions.

2. It is the contention of the Petitioners relying on the decision of this Court in *K.M.Adam -vs- Income Tax Officer, 2nd Additional II Circle, Madras* [(1957) Vol.70 LW 1016] that inasmuch as credit facility extended by way of overdraft cannot be considered as money belonging to a customer, it would not

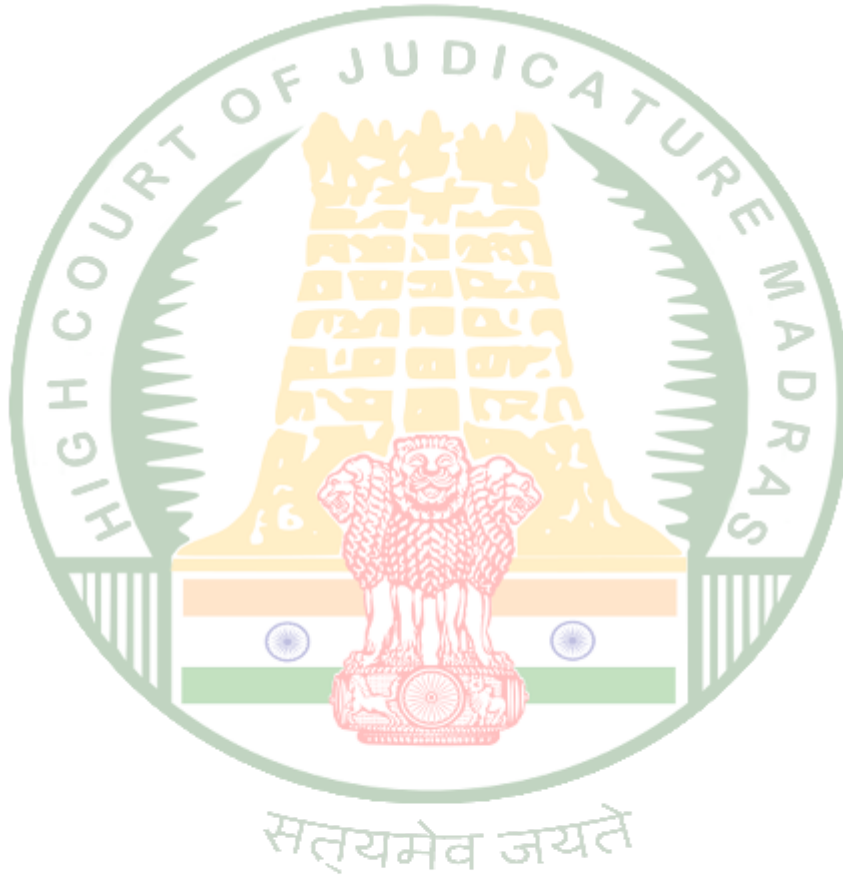
be 'property' liable for attachment to recover provident fund dues. On the other hand, the claim of the authorities under the EPF Act is that what has been actually sought to be attached is the money received from third parties into the overdraft accounts of the said customers with the Petitioners after the orders of attachment had been passed in respect of which first charge exists for recovery of provident fund dues in terms of the non obstante clause in Section 11(2) of the EPF Act, which has been taken cognizance by the Hon'ble Supreme Court of India in *Maharashtra State Co-operative Bank Limited -vs- Assistant Provident Fund Commissioner* [(2009) 10 SCC 123] and *Employees Provident Fund Commissioner -vs- Official Liquidator of ESSKAY Pharmaceuticals Limited* [(2011) 10 SCC 727].

3. Since the proposition canvassed by the authorities under the EPF Act impinges upon the correctness of the earlier ruling of this Court in *K.M.Adam -vs- Income Tax Officer, 2nd Additional II Circle, Madras* [(1957) Vol.70 LW 1016], it would be appropriate that the matter is heard by a Larger Bench of Judges of this Court.

Registry is directed to place the papers before the Hon'ble Chief Justice for obtaining necessary orders in this regard.

27.01.2021

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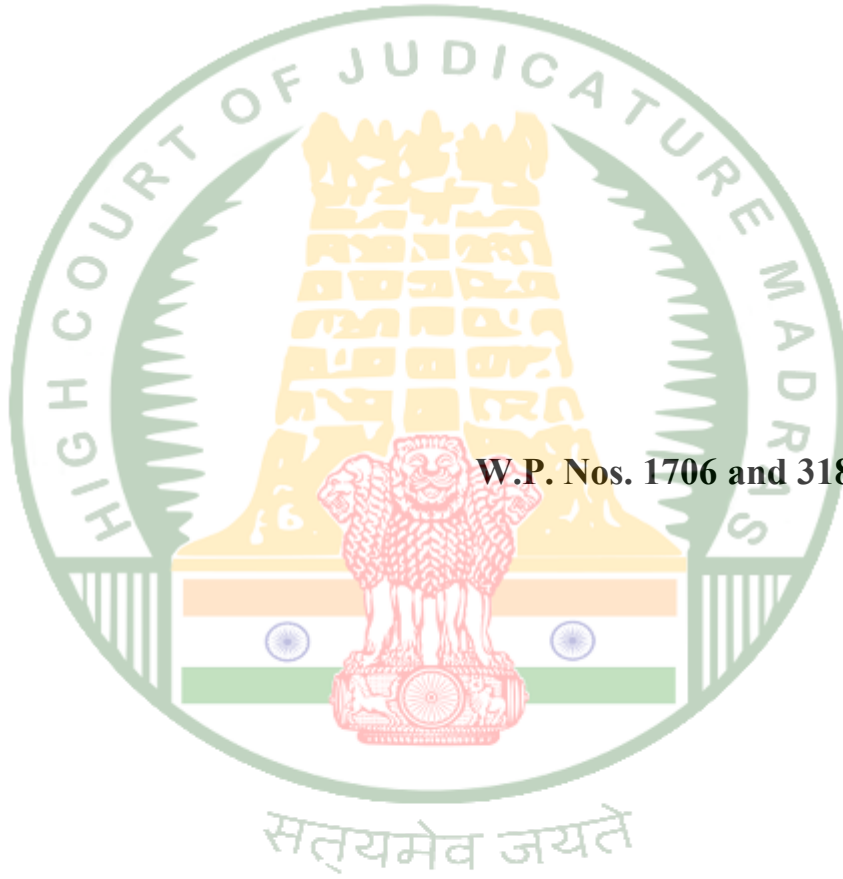


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