

W.P(MD)No.1646 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2026

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

Writ Petition(MD)No.1646 of 2026

and

W.M.P(MD)No.1311 of 2026

M/s Santhome Latex Enterprises,
rep. by its partner
Mukkampala, Manalikarai,
Kanyakumari District - 629 164.

.. Petitioner

Vs

1.The Regional P.F Commissioner-II,
Employees Provident Fund Organization,
Regional Office, No.65, Water Tank Road,
Nagercoil - 629 001.

2.The Enforcement Officer,
Employees Provident Fund Organization,
Regional Office, No.65, Water Tank Road,
Nagercoil- 629 001.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the first respondent in his proceedings No.MD/NKL/55230/7A/order/C31/2025-26 in Diary No.53/2024 dated 03.09.2025 (received on 06.11.2025) and quash the same.



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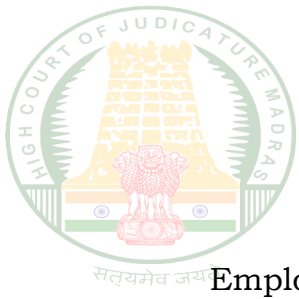
For Petitioner : Mr.M.Jerin Mathew
For Respondents : Mr.I.Robert Chandrakumar

ORDER

The petitioner, who is an employer, assails the order dated 03.09.2025 passed by the second respondent under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. By the said order, the petitioner was called upon to pay a sum of Rs. 30,72,131/- towards Employees' Provident Fund contribution.

2.The second respondent conducted an inspection in the petitioner's establishment on 05.04.2023 and found that the establishment was covered under the Act, but had failed to remit Employees' Provident Fund, Employees' Pension Fund, and Employees' Deposit-Linked Insurance contributions, along with the administrative charges for EPF and EDLI, for the period from April 2016 to March 2023. For the purpose of determining the amount due from the petitioner under the Act and the Schemes framed thereunder, an enquiry under Section 7A(1)(b) of the Act was initiated, and the petitioner was issued notice to appear before the competent authority.

3.The petitioner filed an application under Paragraph 26B of the

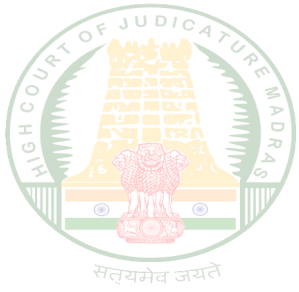


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Employees' Provident Fund Scheme, 1952, stating that eight drivers working in the petitioner's establishment were drawing wages in excess of the ceiling limit of Rs.15,000/- and had filed declarations to that effect, seeking exemption from the applicability of the Act. However, the first respondent, by the impugned order, dismissed the petition filed under Paragraph 26B and directed the petitioner to pay the said amount.

4.Learned counsel for the petitioner submitted that, as per Paragraph 26B of the Employees' Provident Fund Scheme, 1952, the first respondent ought to have referred the petition to the Regional Provident Fund Commissioner. It was further submitted that the authority was required to conduct an enquiry and pass appropriate orders only after providing an opportunity of hearing to both the petitioner and the employees concerned. In the present case, without conducting any enquiry and without affording an opportunity of hearing to either the petitioner or the employees, the impugned order came to be passed. Such action is in contravention of Paragraph 26B of the Scheme and, therefore, the impugned order is liable to be set aside. It was also contended that the writ petition is maintainable, as the order has been passed in gross violation of the principles of natural justice.



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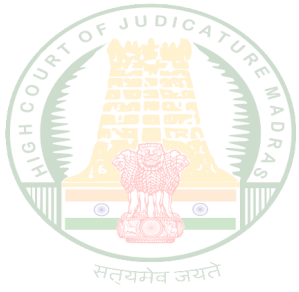
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5.Per contra, learned counsel appearing for respondents 1 and 2 submitted that the eight employees do not fall within the definition of “excluded employees” under Section 2(f) of the Scheme, 1952, and that the first respondent, after considering the matter in the proper perspective, rightly passed the impugned order, which does not warrant interference.

6.The submissions of the learned counsel on either side have been duly considered.

7.Paragraph 26B of the Employees’ Provident Fund Scheme, 1952, deals with resolution of doubts and provides that if any question arises as to whether an employee is entitled to become, is required to become, or continues as a member, or as to the date from which such entitlement or requirement arises, the same shall be referred to the Regional Provident Fund Commissioner, who shall decide the matter. The proviso specifically mandates that both the employer and the employee shall be heard before passing any order.

8.In the present case, the petitioner had filed a petition under Paragraph 26B stating that the eight drivers working in the establishment were drawing wages in excess of the ceiling limit of Rs. 15,000/- and, therefore, were not entitled to the benefits under the Act.



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9.Paragraph 26B clearly stipulates that when a question arises as to whether an employee is entitled to be a member, the Regional Provident Fund Commissioner shall decide the matter after providing an opportunity of hearing to both the employer and the employee.

10.In the present case, the first respondent, without providing an opportunity of hearing to the petitioner as well as the eight employees who had filed declarations in Form No. 11, passed the impugned order without conducting any enquiry. Therefore, the impugned order is in clear contravention of Paragraph 26B of the Scheme, 1952.

11.A writ petition filed without exhausting the alternative remedy of appeal is maintainable when the impugned order has been passed in violation of the principles of natural justice.

12.Accordingly, this writ petition is allowed and the impugned order passed by the first respondent in proceedings No. MD/NKL/55230/7A/order/C31/2025-26 in Diary No. 53/2024 dated 03.09.2025 (received on 06.11.2025) is set aside. The matter is remitted back to the first respondent to reconsider the petition filed under Paragraph 26B of the Scheme, 1952, and pass appropriate



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orders in accordance with law, after providing an opportunity of hearing to the petitioner and the eight employees who had submitted declarations in Form No. 11.

13.This order is subject to the petitioner depositing 50% of the adjudicated amount under Section 7A of the Act before the first respondent within a period of four weeks from today. Upon such deposit, the first respondent shall proceed to pass appropriate orders as indicated above.

14.The petitioner shall cooperate in the enquiry to be conducted under Paragraph 26B of the Scheme, 1952, and the enquiry shall be concluded within a period of two months from the date of deposit of 50% of the adjudicated amount. In the event the petitioner fails to deposit 50% of the adjudicated amount, the impugned order passed by the first respondent under Section 7A of the Act shall stand revived and shall be given effect to.

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

28.06.2026

NCC : Yes/No
Index : Yes/No
Internet:Yes
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HEMANT CHANDANGOUDAR, J.

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Writ Petition(MD)No.1646 of 2026

and

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