



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-07-2026

CORAM

THE HON'BLE MR.JUSTICE K.SURENDER

WP No. 33678 of 2019

The Central Board of Trustees,
Employees Provident Fund
Rep. by Regional Provident Fund Commissioner-II
Bhavishyandihi Bhawan
Post Box No.3875, Dr.Balasundaram Road,
Coimbatore- 641 018.

..Petitioner

Vs.

M/s.Poppys Knitwear Pvt. Ltd.
33, MP Nagar, Kongunagar Extension,
Tirupur- 641607.

..Respondent

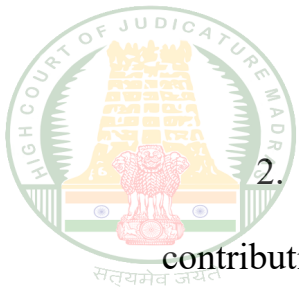
Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, calling for the records from the file of the Presiding officer, Employees Provident Fund Appellate Tribunal (CGIT) made in EPFA.No.223 of 2018 dated 11.04.2019 and quash the same as far as reducing the assessment of damages in to 50% under section 14 B of the Act and to grant such other relief.

For Petitioner: Mr.C.Kulanthaivel

For Respondent: Mr.R.Jayaprakash

ORDER

The Employees' Provident Fund Authority has filed the present writ petition seeking to set aside the order, dated 11.04.2019 passed by the Employees Provident Fund Appellate Tribunal (CGIT), Chennai in EPFANo.223 of 2018.



2. The respondent establishment is bound to remit the statutory contributions towards the Employees Provident Fund. A Show cause notice was issued on 02.11.2015 regarding belated remittance on the statutory contribution towards Employees' Provident Fund of the employees. The respondent appeared before the competent authority and explained the reason for delayed remittance mainly on the ground that it was not intensional and there was financial crisis. However after considering the grievance of the respondent, 100% damages were levied under Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, (in short 'Act') which amounts to Rs.11,39,648/- and also for damages under Section 7Q of the Act amounting to Rs.6,54,395/-.

3. The Tribunal found that there cannot be any interference regarding the amount quantified under Section 7Q of the Act, however reduced the damages imposed under Section 14 B of the Act by 50% and directed the respondent to pay a sum of Rs.5,69,824/- within a period of three months from the date of the order that is 11.04.2019.

4. The learned counsel for the petitioner / Employees Provident Fund Authority would submit that the entire amounts under 7Q of the Act and also the amount of Rs.5,69,824/- were paid within time. Further, it is not in dispute that the respondent did not prefer any appeal against the orders passed seeking waiver of 14B charges before the Industrial Tribunal.



5. The main ground on which the Tribunal reduced the quantum of damages by 50% was based on the Judgment of the Hon'ble Apex Court in ***State Insurance Corporation Vs. HMT Ltd and anr.*** reported in ***AIR 2008 SC 1322*** wherein the Hon'ble Apex Court held that the existence of *mensrea or actus reus* is a necessary ingredient for levy of damage and quantum thereof.

6. The learned counsel for the petitioner would submit that in ***Horticulture Experiment Station, Gonikoppal, Coorg Vs. Regional Provident Fund Organization*** reported in ***(2022) 4 Supreme Court Cases 516***, contrary view was taken by holding that *mensrea or actus reus* cannot be considered while interfering with damages. In view of the Judgment passed in the Judgment of the ***State Insurance Corporation cited supra*** on which the Tribunal placed reliance was impliedly overruled and also held *per incuriam*.

7. On the other hand, the learned counsel for the respondent would submit that the full bench of this Court in W.P.(MD).Nos.7339 & 9688 of 2013 and batch cases, dated 03.06.2024 has held that the Employees' Provident Fund Appellate Tribunal has the discretion to impose and quantify the damages under 14B of the Act. For the issues of the year 2015, the damages were levied. Against the said damages levied under 14B, the respondent approached the Tribunal and orders were passed in the year 2019, deducting the entire amount by 50%. The respondent without questioning the said orders, has paid the entire

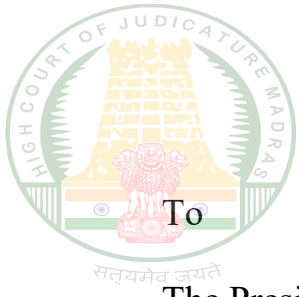


damages under 7Q of the Act which was levied. The Judgment that was relied upon by the Tribunal is of the year 2018 and it was impliedly overruled in the year 2022 by virtue of the Judgment in the case of ***Horticulture Experiment Station, Gonikoppal, Coorg cited supra***. It is needless to state that any Judgment would be prospective in its application. Further, the Tribunal has the discretion to reduce the quantum of damages. Though the Tribunal had based its findings had reduced the damages on the Judgment which was impliedly overruled in the year 2022 that it itself does not make out a ground for interference of the Court seeking enhancement of the damages or setting aside the order of the Tribunal reducing the amount to 50% of the damages imposed. Hence, the writ petition deserves to be dismissed.

8. Accordingly, this writ petition stands dismissed. No costs.

(K.SURENDER,J.)
15-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To

The Presiding officer,
Employees Provident Fund Appellate Tribunal
(CGIT) Chennai.



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