IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 11579 of 2010 (V)

PETITIONER(S):

M/S.CANNANORE CO-OPERATIVE SPINNING
MILLS LTD., P.B.NO.2005, CHOVVA
KANNUR-670 006, REPRESENTED BY ITS MANAGING DIRECTOR
M.C.SANKARAN.

BY ADVS.SRI.E.K.NANDAKUMAR
SRI.K.JOHN MATHAI
SRI.P.BENNY THOMAS
SRI.P.GOPINATH

RESPONDENT(S):
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1. EMPLOYEES PROVIDENT FUND APPELLATE
TRIBUNAL, SCOPE MINAR, CORE II
4TH FLOOR, LAXMI NAGAR DISTRICT CENTRE, LAXMI NAGAR
NEW DELHI-110 092.

2. THE ASST.PROVIDENT FUNC COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANIZATION
SUB REGIONAL OFFICE, P.B.NO.117, KANNUR-670 001.

BY SRI.THOMAS MATHEW NELLIMOOTTIL,SC, P.F.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 11579 of 2010 (V)

APPENDIX

EXHIBITS

P1- TRUE COPY OF THE ORDER OF R2 DATED 13.10.03

P2- TRUE COPY OF THE APPEAL PETITION ATA. NO. 759(7)/2003 (WITHOUT ITS ANNEXURES) DATED 28.10.03

P3- TRUE COPY OF THE ORDER OF THE TRIBUNAL DATED 27.1.10 IN ATA.NO.759 (7)/2003

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P.S. To Judge

K.VINOD CHANDRAN, J

W.P.(C).No. 11579 of 2010

Dated 19th March, 2015

JUDGMENT

The petitioner is aggrieved with Ext.P1 order as confirmed in Ext.P2. Ext.P1 order is with respect to the penalty imposed under Section 14B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (EPF & MP Act). Admittedly, the delay occurred for the months 8/2001 to 3/2003 and the petitioner was mulcted with the maximum penalty under Section 14B. The appeal filed also went against the petitioner.

2. The petitioner's specific contention is that the petitioner had financial difficulties and the delay was not deliberate. The original authority who passed Ext.P1 has not considered the said ground. However, the petitioner has raised that ground before the

Appellate Authority as is seen from Ext.P2 Appeal memorandum. The Appellate Authority found that the financial difficulty is not a ground for exonerating the liability under Section 14B. However, a Division Bench of this Court has found otherwise in **Regional Provident Fund Commissioner v. Harrisons Malayalam Ltd. (2013 (3) KLT 790)**. Normally this Court would have directed consideration of the same afresh by the Original Authority.

3. However, in the present case, it is to be noticed that this Court has passed an order on admission on 05.04.2010 directing that 20% of the demand would be satisfied in five equal instalments commencing from 20.04.2010. If the said order has been complied with, this Court is of the opinion that the penalty imposed under Ext.P1 can be confined to 25%. If the amounts have not been deposited, then the respondents

would be entitled to proceed for recovery of the 25%. Ext.P1 would stand modified insofar as reducing the amount to 25% as computed therein.

The writ petition is allowed. Parties are left to suffer their respective costs.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

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