

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. 11752 of 2010 (T)

PETITIONER(S):

M/S.CAMERIN DRUGS AND PHARMACEUTICALS
LTD., VARAMPOST, 670 594,
KANNUR DISTRICT, REP.BY ITS WHOLE TIME DIRECTOR.

BY ADVS.SRI.U.K.RAMAKRISHNAN (SR.)
SRI.V.KRISHNA MENON
SRI.U.K.DEVIDAS

RESPONDENT(S):

1. THE EMPLOYEES PROVIDENT FUND APPELLATE
TRIBUNAL, SCOPE MINIAR, CORE-II
4TH FLOOR, LAKSHMI NAGER, NEW DELHI-110092.

2. THE ASST.PROVIDENT FUND COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANIZATION
SUB REGIONAL OFFICER, KANNUR.

BY SRI.THOMAS MATHEW NELLIMOOTIL,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. 11752 of 2010 (T)

APPENDIX

EXHIBITS

P1- TRUE COPY OF THE SHOW CAUSE NOTICE DATED 8.8.2002 ISSUED BY R2 TO THE PETITIONER

P2- TRUE COPY OF THE ORDER NO.KR.KNR/11435/Enf.I(01)/ DAMAGES/2002/3024 DATED 3.12.2002 PASSED BY R2

P3- TRUE COPY OF THE MEMORANDUM OF APPEAL NO.ATA 30(7) OF 2003 FILED BY THE PETITIONER BEFORE R1

P4- TRUE COPY OF THE ANNEXURE A1 FILED ALONG WITH APPEAL DATED 3.12.2002

P5- TRUE COPY OF THE ANNEXURE A4 FILED ALONG WITH APPEAL DATED 3.12.2002

P6- TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 5.2.2004 IN WP(C).3835 OF 2004

P7- TRUE COPY OF THE ORDER OF R1 DATED 29.1.2010 IN ATA NO.30 (7) /2003

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P.S. To Judge

K.VINOD CHANDRAN, J

W.P.(C).No. 11752 of 2010

Dated 19th March, 2015

JUDGMENT

The petitioner is aggrieved with Ext.P2 order as confirmed in Ext.P3. Ext.P2 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 4/1998 to 3/2001 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.P2 has not considered the said ground. However, the petitioner has raised that ground before the

Appellate Authority as is seen from Ext.P3 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 06.04.2010 directing that 25% of the demand would be satisfied within one month. If the said order has been complied with, this Court is of the opinion that the penalty imposed under Ext.P2 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.P2 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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