IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 11039 of 2015 (D)

PETITIONER(S):
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1. DEPOT MANAGER, KERALA STATE CIVIL SUPPLIES CORPORATION
TALUK DEPOT, WADAKKANCHERRY

2. KERALA STATE CIVIL SU PPLIES CORPORATION
REPRESENTED BY ITS MANAGING DIRECTOR
MAVELI BHAVAN, GANDHI NAGAR
COCHIN - 682 020.

BY ADV. SMT.MOLLY JACOB,SC,SUPPLYCO

RESPONDENT(S):
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1. ASSISTANT PROVIDENT FUND COMMISSIONER
EMPLOYEES PROVIDENT FUND ORGANISATION
SUB REGIONAL OFFICE
BHAVISHYA NIDHI BHAVAN, ERANHIPALAM
KOZHIKODE - 673 006.

2. THE BRANCH MANAGER, FEDERAL BANK
WADAKKANCHERY, TRICHUR.

R BY SRI. THOMAS MATHEW NELLIMOOTTIL, SC, EPF ORG.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 11039 of 2015 (D)

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1	**COPY OF THE REPRESENTATION DATED 28.04.2014 SUBMITTED BY THE 1ST PETITIONER BEFORE 1ST RESPONDENT.**
EXT.P1(a)	**COPY OF THE LETTER DATED 30.7.13 OF ENFORCEMENT OFFICER ADDRESSED TO THE 1ST PETITIONER.**
EXT.P1(b)	**COPY OF THE LETTER DATED 19.8.13 OF ENFORCEMENT OFFICER ADDRESSED TO THE 1ST PETITIONER.**
EXT.P2	**COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT U/S 14(B) OF THE EPF AND MP ACT 1952.**
EXT.P3	**COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT U/S 7Q OF THE EPF AND MP ACT 1952.**
EXT.P4	**COPY OF THE ORDER OF ATTACHMENT ISSUED BY 1ST RESPONDENT UNDER SECTION 8F OF THE EPF AND MP ACT, 1952.**
EXT.P5	**COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT.**

RESPONDENTS EXHIBITS: **NIL**

// TRUE COPY //

P.A to Judge

SB

K. VINOD CHANDRAN, J.
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W.P.(C) No.11039 of 2015 - D
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Dated this the 6th day of April, 2015

J U D G M E N T

The petitioners are aggrieved with Exts.P2 and P3 orders, being penalty imposed under Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for brevity, 'EPF & MP Act') and interest levied under Section 7Q of the EPF & MP Act. The orders were respectively dated 09.05.2014 and 19.05.2014. With respect to the order passed under Ext.P3 being an order under Section 7Q of the Act, the Hon'ble Supreme Court in **M/s. Arcot Textile Mills Ltd.** v. **Regional Provident Fund Commissioner and others [AIR 2014 295]** held that the same is not an appealable order, since, the interest levied is compensatory in nature and automatic.

2. The learned Counsel for the petitioners however, would argue that, the Hon'ble Supreme Court has also held in the aforesaid decision that, the employer has a

right to file objections against the notice issued under Section 7Q of the EPF & MP Act. There could be no dispute on such proposition and it is clear that, the petitioners were issued with notice at Ext.P1(a). The petitioners had filed Ext.P1 objection and it was after consideration of the same, Ext.P2 and P3 orders are passed. In fact it is also to be noticed that Ext.P3 specifies interest @ 12% p.a. as provided under the EPF & MP Act. In such circumstance, there can be no interference caused to Ext.P3 order on the ground that interest rate is not specified.

3. As to the order passed under Section 14B of the EPF & MP Act, the same is an appealable order, the time for which as provided under the statute is long over. This Court has in **Panopharam** v. **Union of India [2010 (3) KLT149]** and **Assistant Commissioner of Central Excise v. Krishna Poduval [2005 (4) KLT 947]** held that Article 226 of the Constitution of India cannot be invoked to extend the time for filing an appeal. Hence, there could be no interference caused to Ext.P2, especially since, no

ground to invoke the jurisdiction under Article 226 is urged and an appellate remedy as provided under the statute has not been availed of by the petitioner.

4. However, considering the impecunious circumstance of the petitioner, the petitioner is granted six monthly instalments to pay off the entire amounts as per Exts.P2 and P3. The first of such instalment shall commence on 06.05.2015 and followed up with the instalments on the 6th of every succeeding months. If one default is committed, the respondent Organisation is entitled to proceed for recovery. If the amounts are satisfied, necessarily, the recovery proceedings would stand closed.

The writ petition is disposed of.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge