

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WP(C).No. 34678 of 2014 (H)

PETITIONER :

**M/S.KERALA STATE HANDLOOM DEVELOPMENT CORPORATION LTD.,
THILLERI ROAD, KANNUR-670 001
REPRESENTED BY ITS COMPANY SECRETARY, MR. MADHU.**

**BY ADVS.SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.BENNY THOMAS
SRI.P.GOPINATH
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURRYAN THOMAS**

RESPONDENTS :

- 1. ASSISTANT PROVIDENT FUND COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANISATION,
SUB REGIONAL OFFICE, P.B. NO. 117, V.K. COMPLEX,
FORT ROAD, KANNUR - 670 003.**
- 2. EMPLOYEES PROVIDENT FUND APPELLATE TRIBUNAL,
SCOPE MINAR, CORE II, 4TH FLOOR,
LAXMI NAGAR DISTRICT CENTRE, LAXMI NAGAR,
NEW DELHI- 110 092.**
- 3. CHIEF MANAGER,
STATE BANK OF TRAVANCORE, MAIN BRANCH,
KANNUR - 670001.**

**R1 & R2 BY DR.ABRAHAM P.MEACHINKARA, SC, EPF ORG.
R3 BY SRI.T.SETHUMADHAVAN SENIOR ADVOCATE
BY ADVS. SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 07-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

WP(C).No. 34678 of 2014 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT-P1: TRUE COPY OF THE BALANCE SHEET AND PROFIT AND LOSS
ACCOUNTS FOR THE FINANCIAL YEAR 2013-14.**

**EXHIBIT-P2: TRUE COPY OF THE ORDER DATED 27/10/2014 PASSED BY THE IST
RESPONDENT.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

K.VINOD CHANDRAN, J

W.P.(C).No. 34678 of 2014

Dated 7th January, 2015

JUDGMENT

The petitioner was aggrieved with the demand and the recovery steps initiated as per Ext.P2 order passed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ('EPF & MP Act'). Obviously, Ext.P2 is an order levying damages under Section 14B. The petitioner had taken up a contention before the Original Authority that the petitioner was reeling under losses and the financial difficulty was the reason for not remitting contributions in time. Obviously the same has not been considered which is a valid reason for mitigation of levy of damages under Section 14B as has been held in **Regional Provident Fund Commissioner v. Harrisons Malayalam Ltd. (2013 (3) KLT 790)**. In any event, the petitioner has availed of the remedy of appeal as provided under the Statute. An appeal is said to have been filed before the Appellate Tribunal, numbered as A.T.A.No.1362(7) of

2014. However, the Tribunal is not functioning since the incumbent in the office of the Appellate Tribunal has retired. In such circumstances, especially considering the fact that Section 14B damages has been demanded under Ext.P2, there shall be a stay of Ext.P2 till the disposal of the aforesaid appeal.

The writ petition is disposed of, leaving the parties to suffer their respective costs.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

//True Copy//