



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2017

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALUW.P.(MD)No.4579 of 2011andM.P.(MD)No.1 of 2011

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Kali Super Stores (P) Ltd.,
No.12 Sarangapani Sannathy Street,
Kumbakonam 612 001,
Rep. by its Managing Director,
K.M.Bindhusadhakan.

... Petitioner

Vs.

1.The Assistant Provident Fund
Commissioner (Compliance) Trichy,
Employee's Provident Fund Organisation,
Sub Regional Office, P.B.No.555,
Sree Complex, 'D' Block,
18 Madurai Road,
Trichy-620 008.

2.The Enforcement Officer,
Employee's Provident Fund Organization,
District Office,
B2 G Kamaraj Road,
Kumbakonam.

...Respondents

Prayer: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the 1st respondent in proceedings No.D4/TN/76622/SRO/TRY/2011, quash its order dated 25/30.03.2011 and direct the 1st respondent to entertain the petitioner's application dated 30.07.2010, by affording personal hearing to the petitioner and pass order on merits in terms of Section 7B of the EPF Act.

For Petitioner : Mrs.P.Malini
For R1 : Mr.V.S.Karthi

O R D E R

This Writ Petition has been filed challenging the proceedings No.D4/TN/76622/SRO/TRY/2011 dated 25/30.03.2011 passed by the first respondent, by which the review application under Section 7-B of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 has been rejected on the ground that it had not been submitted within the period of 45 days prescribed in Rule 79-A of the Employees' Provident Fund Scheme, 1952.

2.Heard Mrs.P.Malini, learned counsel appearing for the petitioner and Mr.V.S.Karthi, learned counsel for the first respondent.



3.It is pointed out by the learned counsel for the petitioner that the order dated 18.06.2010, which had been communicated to the petitioner by registered post was actually delivered only on 30.06.2010, by producing the postal cover with endorsement made with seal, and that thereafter, the review application dated 30.07.2010 was filed before the Employees Provident Fund Organization, District Office, Kumbakonam and the second respondent, viz., Enforcement Officer, Kumbakonam, in turn by letter dated 02.08.2010, had forwarded the review petition of the petitioner to the first respondent, viz., The Assistant Provident Fund Commissioner (Compliance) Trichy, with a copy to the petitioner. On the basis of the aforesaid forwarding letter dated 02.08.2010, it is contended by the learned counsel for the petitioner that since the review application has been filed within 33 days from 30.06.2010, it could not have been rejected on the ground of limitation. Though it is mentioned in the impugned order that the review petition has been received on 27.08.2010, the first respondent has not produced any material in proof thereof to disbelieve the contention of the petitioner that the second respondent had forwarded the same to the first respondent on 02.08.2010 itself. That apart, the petitioner has filed an affidavit dated 14.11.2017 that the petitioner has not filed any appeal against the order dated 18.06.2010, which is hereby recorded.

4.In the aforesaid circumstances, there does not appear to be any impediment for the first respondent to entertain the review application of the petitioner. Accordingly, the impugned proceedings No.D4/TN/76622/SRO/TRY/ 2011, dated 25/30.03.2011 is set aside and review application dated 30.07.2010 filed by the petitioner shall be taken on file by the first respondent and after hearing all parties concerned, the same shall be decided on merits in accordance with law, on or before 31.03.2018.

5.Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

+1cc to M/S.P.Malini, Advocate SR.No. 87349

+1cc to M/S.V.S.Karthi, Advocate SR.No. 87395

W.P. (MD) No.4579 of 2017

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