

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06-03-2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.4858 of 2018

And

WMP Nos.5991 and 5992 of 2018

M/s.Standard Rehabilitators Pvt. Ltd.,
Represented by its Managing Director,
No.61, Brindavan Nagar,
Eranavoor,
Chennai-600 057. ... Petitioner

-vs-

The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
No.37, Royapettah High Road,
Chennai-600 014. ... Respondent

Petition under Article 226 of the Constitution of India,
praying for the issuance of a Writ of Certiorari, calling for
the records relating to the impugned order passed by the
respondent vide No.TN/(31307)/D-29/MAS/PDC/2017 dated 4.1.2018
under Section 14-B and 7Q of the EPF Act, 1952 and to quash the
same.

For Petitioner - Mr.M.Venkadeshnan

For Respondent - Mr.T.R.Sundaram,
Standing Counsel.

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ORDER

The petitioner was issued with two impugned orders by the
Assistant Provident Fund Commissioner in proceedings No.TN/
(31307)/ D-29/MAS/PDC/2017 and TN/(31307)/D-29/MAS/PDC/2017,
both dated 4.1.2018. Both the impugned orders were issued for a
total sum of Rs.6,42,412/- and Rs.3,10,414/- respectively
towards damages and belated remittances for the period from
March 2012 to December 2016.

2. Aggrieved by the same, the petitioner has filed a statutory appeal in Appeal No.582 of 2018 on the file of the Provident Fund Tribunal on 26.2.2018. Since no Presiding Officer is functioning in the Provident Fund Appellate Tribunal, the appeal filed by the petitioner is still pending. The learned counsel appearing for the petitioner would submit that as there is no wilful default in the remittance of provident fund contributions, the question of damages and interest on the belated payment does not arise at all. This has to be examined by the Provident Fund Appellate Tribunal, wherein the appeal of the petitioner is still pending.

3. Taking notice, the learned Standing Counsel appearing for the respondent would submit that there is no Presiding Officer manning the Provident Fund Appellate Tribunal.

4. I could see some force on the submission of the learned counsel for the petitioner that the petitioner is not liable to pay the damages/interest. In any event, this issue has to be gone into by the Provident Fund Appellate Tribunal. But due to want of Presiding Officer, the petitioner is not in a position to get an appropriate order. Therefore, the impugned orders are stayed, till the appeal filed by the petitioner is taken up and considered by the Provident Fund Appellate Tribunal.

5. With this observation, the writ petition stands disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

Svn
To

The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
No.37, Royapettah High Road,
Chennai-600 014.

+1cc to Mr.M.Venkadeshnan, Advocate, S.R.No.17158

W.P.No.4858 of 2018

ssi(co)
cs/09/04/18