

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPL No. 27 of 2019**

Sudama Prasad Shukla S/o Shri Sharda Prasad Shukla Aged About 71 Years Proprietor M/s Sudama Prasad Shukla, R/o Green Park Colony, Jarhabhata Bilaspur, District - Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Petitioner**Versus**

Asst. Provident Fund Commissioner C/o Office Of The Regional Provident Fund Commissioner Block D, Scheme No. 32, Igv Parisar Pandri Raipur, District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondent

For Petitioner	:	Mr. Sudeep Johri with Mr. Syed Ishhadil Ali, Advocates
For Respondent/s	:	Mr. Sunil Pillai, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****21/02/2019**

1. The challenge in the present writ petition is to the order (Annexure P-1) & (Annexure P-2) dated 27/7/2018 and 17/09/2018.
2. The facts of the case is that the respondent has initiated a proceeding against the petitioner under provision of Section 7(A) of EPF and Misc. Provision Act, 1952. Section 7(A) proceedings culminated on 27/07/2018 under Section 7(B) of the Act of 1952 there is a provision for review. In the instant case the petitioner thereafter filed a review application on 10.09.2018. Without deciding the review petition the respondents had initiated recovery proceedings against the petitioner. The petitioner immediately filed a writ petition that was registered as WPL No. 211/2018. The said writ petition was allowed on 17/09/2018 and where this Court specifically held that since the review petition was already pending consideration before the

competent authority initiation of the recovery proceeding in between was not justified and therefore keeping the recovery proceedings in abeyance this Court had disposed off the writ petition to decide the Review by the competent authority. Order of this Court was on 17/09/2018. The records show that the respondent authorities had in fact on 17/09/2018 itself decided the review petition also and, the same was rejected on the ground that review petition being barred by limitation.

3. Concerned authority in his order has specifically held that the period of review is 45 days and in the instant case the date of order was 27/7/2018 and if that be so, 45 days comes to 11/09/2018. Undisputedly the review petition has been filed on 10/09/2018 which is clearly reflected from Paragraph 4 of the order passed in the review petition. 10/09/2018 is the 44th day and not the 45th day. Even if, it is 45 day still the review petition cannot be rejected holding it to be barred by limitation. This Court fails to understand as to how the authority reached to such a conclusion and on what basis the calculation has been made.
4. Without further making any discussion on the subject, the order (Annexure P-2) is apparently bad in law and the same deserves and is accordingly set aside and is remitted back before the Assistant Provident Fund Commissioner for a fresh adjudication of the review petition on its merits. Since this Court is setting aside the order Annexure P-2 passed in review petition remitting it back to the concerned authority, this Court is not expressing any opinion so far as the veracity of the Annexure P-1 the order passed under Section

7(A) dated 27/7/2018. The petitioner would be at liberty to challenge the same in an appropriate proceedings if still aggrieved at a later stage.

5. The writ petition stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Rohit