

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.1470 of 2015
& MP.No.1/2015

The Salem Co-op. Sugar Mills Limited
Rep.by Managing Director,
Mrs.R.Priya,
Namakkal-637 015.

...Petitioner

vs.

The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub Regional Office,
S.J.Plaza, Swarnapuri,
Salem-636 004.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records from the file of the respondent in proceedings Order Ref.No.TN/SLM/SRO/PDC/4840/S-4/14B/PROCEEDINGS/2014 dated 15.12.2014 and quash the same.

For Petitioner : Mr.S.Gunalan

For Respondents : Mr.R.Thirunavukarasu

O R D E R

The order dated 15.12.2014 passed by the respondent under Section 14B of the EPF & MP Act, 1952 is under challenge in the present writ petition.

2. The writ petitioner is the Salem Co-operative Sugar Mills Limited. The petitioner states that they are paying the EPF contributions promptly. The Assistant Provident Fund Commissioner sent a notice to the petitioner under Section 14 (B) of the Act stating that 17% to 37%, as rate of damages, shall be levied towards damages. For belated payment of contributions, the petitioner appeared before the respondent and explained their grievances. However, the grounds raised by the writ petitioner were not considered and the impugned order was passed imposing the damages of Rs.1,14,247/- (Rupees One Lakh Fourteen Thousand Two Hundred and Forty Seven Only).

3. The learned counsel appearing for the writ petitioner states that the levy of damages as well as the levy of interest under Section 7Q of the Act, amounts to double jeopardy. Already, the petitioner has paid the contributions as well as the interest under Section 7Q of the Act. Thus, the imposition of damages under Section 14B is excessive and therefore, the impugned order is to be quashed.

4. The authorities competent are empowered to impose the damages for belated payment of contributions under Section 14B of the EPF Act. The power under Section 14B is not disputed and the amount was also calculated as Rs.1,14,247/-. A perusal of the impugned order reveals that for the period from January 1996 to November 2010, there was a delay on the part of the writ petitioner in paying the contributions. Thus, the damages was imposed under Section 14B of the EPF & MP Act, 1952. The writ petitioner has not disputed, the payment of contributions to the competent authority. The reasons stated in the impugned order is also candid, in respect of the belated payment made by the petitioner.

5. This being the factum, there is no reason whatsoever to interfere with the order impugned. The writ petitioner is liable to pay the damages, which was quantified by the competent authority under Section 14B of the Act. This apart, the writ petitioner has not preferred the statutory appeal contemplated under Section 7(I) of the EPF & MP Act. For all these reasons, the writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssb
To

The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub Regional Office,
S.J.Plaza, Swarnapuri,
Salem-636 004.

+1cc to Mr.S.Gunalan, Advocate SR.90347
+1cc to Mr.R.Thirunavukarasu, Advocate SR.90465

W.P.No.1470 of 2015

SSP(CO)
CB(05/12/2019)