



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.32549 of 2014

and

MP.No.1 of 2014

M/s. Mando Automotive India Limited.,
Plot No.S1A & S5 SIPCOT Industrial Park,
Vengadu Village,
Pillaipakkam Post,
Sriperumbudur Taluk,
Tamil Nadu 602105
Represented by its Authorised Signatory.

...Petitioner

vs.

Assistant Provident fund Commissioner,
Sub-regional office, Ambattur,
R-40, A.T.N.H.B,
Office-cum-shopping complex,
Mugappair Road, Mugappair,
Chennai- 600037.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari or any other appropriate writ or order to call for the records and quash the order bearing No.TN/SRO/AMB/66383/PDC/205/2014 dated 20.11.2014 passed by the respondent, Assistant Provident Fund Commissioner, Sub-regional office, Ambattur, R-40, A.T.N.H.B, Office-cum-shopping complex, Mugappair Road, Mugappair, Chennai-600037.

For Petitioner : Mr.S. Ravi
for M/s. Gupta and Ravi

For Respondent : Mr. J. Sathya Narayan Prasad

O R D E R

The order dated 20.11.2014 passed by the respondent under Section 14-B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 is under challenge in the present Writ Petition.



2. Admittedly, the order passed under Section 14-B of the Act is appealable order under Section 7 I of the Act before the Appellate Tribunal constituted. However, the learned counsel for the writ petitioner management made a submission that the Tribunal was not constituted at Bangalore during the relevant point of time during November 2014, though the Notification was issued for the constitution of Tribunal on 1.11.2014. It was constituted much later and therefore the petitioner management was not in a position to Appeal under Section 7 I of the Act, during the relevant point of time. Thus not filing of the appeal is not willful and cannot be said to be without bona fide reasons. Under these circumstances, the learned counsel made a submission that the petitioner may be granted permission to file an appeal. In view of the fact that only subsequently the Tribunal was constituted and as of now the jurisdiction is conferred on the Central Government Industrial Tribunal at Chennai, the petitioner would redress his grievance before the Tribunal by filing an Appeal.

3. This being the submission, this Court is of the opinion that not filing of an Appeal was not willful and therefore the petitioner must be granted liberty to file an Appeal before the Central Government Industrial Tribunal for adjudication of the dispute raised between the parties.

4. Accordingly, the writ petitioner is at liberty to file an Appeal before the Central Government Industrial Tribunal at Chennai which is having jurisdiction within a period of 30 days from the date of receipt of a copy of this order.

5. In the event of filing any such Appeal, the Tribunal shall entertain the same, adjudicate the issues and decide the matter on merits and in accordance with law. Till the date of filing of the Appeal, the respondent is directed not to take coercive action based on the order passed under Section 14-B of the Act dated 20.11.2012.

6. The Writ Petition stands disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar



To

The Assistant Provident fund Commissioner,
Sub-regional office, Ambattur,
R-40, A.T.N.H.B,
Office-cum-shopping complex,
Mugappair Road, Mugappair,
Chennai- 600037.

+1 cc to M/s.Gupta & Ravi,Advocate Sr.No. 97806

+1 cc to M/s.J.Sathya Narayana Prasad,Advocate Sr.No. 97992

AKM/07.01.2020/3P-4C /

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