



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD)No.19941 of 2019

and

W.M.P(MD)No 16443 of 2019

Tirunelveli City Municipal Corporation,
Rep.by its Commissioner,
S.N.High Road,
Tirunelveli - 627 001.

... Petitioner

Vs.

The Regional Provident Fund Commissioner -II,
Employees Provident Fund Organization,
Regional Office Tirunelveli,
Bhavishya Nidhi Bhawan,
N.G.O.'B' Colony, Tirunelveli - 627 007.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari, to call for the records pertaining to the impugned Assessment order in File No.TN/TNY/00892300000/CD-I/Circle 12 / 2019, dated 31.07.2019 and the consequential attachment order in No.TN/TNY/89230/Enf./Circle.12/CD-I/T.15/2019, dated 12.09.2019, passed by the respondent and quash the same.

For Petitioner	: Mr.K.Chellapandian, AAG, for Mr.P.Athimoolapandian
For Respondent	: Mr.K.Muralisankar, Standing Counsel.

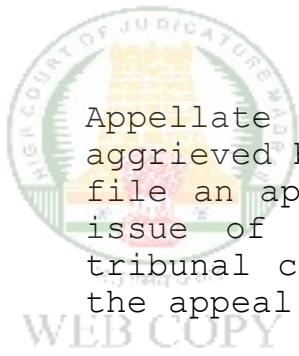
O R D E R

The order under challenge is penal damages imposed by the respondent under Section 14 B of Employee's Provident Funds and Miscellaneous Provisions Act, 1952. (herein after referred as 'the Act').

2.The learned counsel appearing for the petitioner would submit that the default committed by the petitioner is not willful. They are performing their duties by implementing many schemes and by way of collecting tax amount properly.

3.On the other hand, the learned counsel appearing for the respondent would submit that as per Section 7-I of the Act an appeal remedy is available. As per Rule 7 of the Employee's Provident Funds

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Appellate Tribunal (Procedure) Rules, 1997, if any person is aggrieved by a notification issued by the Central Government, he may file an appeal before the Tribunal within 60 days from the date of issue of the notification/order and in case of the delay, the tribunal can condone the delay. Since the petitioner has not filed the appeal in time, he is not entitled to seek their remedy.

4.Considering the submissions that there is an appeal provision available before the tribunal under Section 7 -I of the Act, as held by this Court in the case of **St.Michael's Higher Secondary School Vs. Assistant Provident Fund Commissioner (Compliance), Employees Provident Fund Organization and another** reported **2019-1-LLJ-420 (Mad)**, this writ petition is not maintainable.

5.Considering the facts and circumstances of the case, a direction is issued to the petitioner to present an appeal before the tribunal (Employee Provident Fund Appellate Tribunal) within a period of two weeks from the date of receipt of a copy of this order. In the event of filing an appeal, the respondent/Employees Provident Fund Tribunal is directed to entertain the appeal without insisting for condonation of delay or any deposit and dispose of the same on merits and in accordance with law as expeditiously as possible.

6.The Writ Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar(CS)

Das

+1 CC to Mr.K. MURALISANKAR, Advocate (SR-102274[F] dated 28/11/2019)

+1 CC to Mr.P.ATHIMOOLAPANDIAN, Advocate (SR-102717[F] dated 29/11/2019)

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and

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