

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 6302 of 2018

and

W.M.P. No. 7786 of 2018

M/s. Saraswathy Consultancy India (P) Ltd.,
No. 14, First Floor, 4th Cross, Kamalam Nagar,
Reddiyarpalayam,
Pondicherry – 605 010,
Represented by its Managing Director,
R. Gnanasekaran

... Petitioner

-VS-

The Regional Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Regional Office, Puducherry,
No. 101, 100 Feet Road, Cholan Nagar,
Olandai Keerapalayam,
Pondicherry.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned orders dated 12.10.2017 passed by the Respondent vide No. TN/RO/PDY/PC/1807/Comp/DIV – III/7 A ORDER/2017-18 and the consequential impugned

order passed by the Respondent dated 08.01.2018 vide No. TN/RO – PDY/PC/1807/DIV III/COMP/8 F ORDER/2018, and quash the same.

For Petitioner : Mr. B.Balavijayan

For Respondent : Mrs. V.J.Latha, Standing Counsel

ORDER
(through video conference)

Heard Mr. B.Balavijayan, Learned Counsel for the Petitioner and Mrs. V.J.Latha, Learned Standing Counsel appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Respondent by Order No. TN/RO/PDY/PC/1807/Comp/DIV-III/7A ORDER/2017-18 dated 12.10.2017 passed under Section 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act' for short) had determined the contribution towards Provident Fund payable by the Petitioner, which has been delivered to the Petitioner on 17.10.2017 and a copy of the acknowledgment card to that effect has been produced before this Court, and in the consequential Order No. TN/RO-PDY/PC/1807/DIV III/COMP/8F Order/2018 dated 08.01.2018 under Section 8-F

of the Act, had demanded the dues from the Petitioner for the same. The Petitioner was entitled to prefer appeal against the order under Section 7-I of the Act within a period of 60 days from the date of its receipt in terms of Rule 7(2) of the Employees' Provident Fund Appellate Tribunal (Procedure) Rules, 1997, before the Appellate Authority, who has been empowered to condone delay in filing such appeal for an extended period of 60 days, if sufficient cause for not preferring appeal within that period is made out. However, the Petitioner did not prefer any such appeal before the Appellate Authority, but has instead filed this Writ Petition on 14.02.2018 in this Court challenging the orders passed by the Respondent.

3. It was submitted by the Learned Counsel for the Petitioner during the hearing on 07.09.2020 that at the time of filing this Writ Petition, the Appellate Authority was not functioning, and informed that the Petitioner would shortly file appeal before the Appellate Authority. It is reported today by the Learned Counsel for the Petitioner that the appeal has been filed by the Petitioner on 28.09.2020 before the Registry of the Central Government Industrial Tribunal cum Labour Court, which is the Appellate Authority, and proof in the prescribed form has been produced for the same.

4. In the aforesaid circumstances, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to the Petitioner to pursue the matter in the appeal filed before the Appellate Authority. He has filed a memo dated 29.09.2020 to that effect, which has been placed on record.

5. Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty with the following clarifications:

- (i) that for the purpose of reckoning limitation for availing the statutory remedy, the period from the date of filing of the Writ Petition, viz., 14.02.2018, till today, viz., 29.09.2020, shall be excluded;
- (i) that the Appellate Authority is not precluded from passing any order, interim or final, that it may deem fit and proper in accordance with law following the prescribed procedure after hearing the concerned parties; and
- (iii) that the Respondent shall await the orders to be passed in the application for waiver of pre-deposit/interim stay of the order impugned in the appeal

by the Appellate Authority, and shall not take any coercive measures against the Petitioner for recovery of the amounts due under the order impugned in that appeal, till the orders thereon are communicated to the parties;

Consequently, the connected Miscellaneous Petition is closed. No costs.

29.09.2020

vjt/kv

Index : Yes/No

Note: (i) Issue order copy by 28.10.2020.

(ii) Registry is directed to return the original copy of the impugned order to the Petitioner under written acknowledgment after retaining a copy of the same for record.

To

The Regional Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Regional Office, Puducherry,
No. 101, 100 Feet Road, Cholan Nagar,
Olandai Keerapalayam,
Pondicherry.

P.D. AUDIKESAVALU, J.

vjt/kv

Copy to

1. The Presiding Officer
Central Government Industrial Tribunal-cum-Labour Court,
'B' Wing, 1st Floor Shastri Bhawn,
26, Haddows Road, Chennai - 600 006.
2. M/s. Saraswathy Consultancy India (P) Ltd.,
No. 14, First Floor, 4th Cross, Kamalam Nagar,
Reddiarpalayam,
Pondicherry – 605 010,
Represented by its Managing Director,
R. Gnanasekaran



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