

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.09.2020
CORAM
THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU
W.P. No. 20395 of 2016
and
W.M.P. Nos. 17494 and 17495 of 2016

Mahaveer Safety Glass Company Pvt. Ltd.,
Now known as Fuso Glass India Pvt. Ltd.,
By its Manager-Liaisoning,
Plot D-3, SIPCOT Industrial Park,
Irungattukottai,
Sriperumbudur - 602 105.

... Petitioner

-vs-

The Regional Commissioner,
Employees' Provident Fund Organisation,
Sub Regional Office - Ambattur,
R - 40A, T.N.H.B. Shopping cum Office Complex,
Mugappair (East),
Chennai - 600 037.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
calling for the records on files of the Respondent herein in his
proceedings in TN/SRO/AMB/65598/000/PDC/205/2014 dated
12.06.2015 and quash the same as invalid, illegal and arbitrary.

For Petitioner : Mr. T.V.Lakshmanan

For Respondent : Mr. J.Sathyanarayanaprasad,
Standing Counsel

सतयमेव जयते
O R D E R
(through video conference)

Heard Mr. T.V.Lakshmanan, Learned Counsel for the
Petitioner and Mr. J.Sathyanarayanaprasad, 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/SRO/AMB/65598/000/PDC/205/2014 dated 12.06.2015 had levied
penal damages against the Petitioner under Section 14-B of the
Employees' Provident Funds and Miscellaneous Provisions Act,

1952 (hereinafter referred to as the 'Act' for short). The Petitioner was entitled to prefer appeal against that 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 03.06.2016 challenging the order passed by the Respondent beyond the maximum limitation period of 120 days in that regard.

3. There is no acceptable explanation from the Petitioner for not having resorted to that alternative remedy provided under the statute within the maximum period of limitation that has been prescribed for the same. In this context, it may be recapitulated here that the Hon'ble Supreme Court of India in Assistant Collector of Central Excise -vs- Dunlop India Limited [(1985) 1 SCC 260] has succinctly explained the legal position relating to the exercise of discretionary powers under writ jurisdiction as follows:-

"3. Article 226 is not meant to short-circuit or circumvent statutory procedures. It is only where statutory remedies are entirely ill-suited to meet the demands of extraordinary situations as for instance where the very vires of the statute is in question or where private or public wrongs are so inextricably mixed up and the prevention of public injury and the vindication of public justice require it that recourse may be had to Article 226 of the Constitution. But then the Court must have good and sufficient reason to bypass the alternative remedy provided by statute. Surely matters involving the revenue where statutory remedies are available are not such matters. We can also take judicial notice of the fact that the vast majority of the petitions under Article 226 of the Constitution are filed solely for the purpose of obtaining interim orders and thereafter prolong the proceedings by one device or the other. The practice certainly needs to be strongly discouraged."

That apart, the Hon'ble Supreme Court of India in Assistant Commissioner (CT) LTU, Kakinada -vs- Glaxo Smith Kline Consumer Health Care Limited (Order dated 06.05.2020 in Civil Appeal No. 2413 of 2020) has emphatically laid down that the High Court in the exercise of powers under Article 226 of the Constitution of India ought not to entertain Writ Petition assailing the order

passed by a Statutory Authority which was not appealed against within the maximum period of limitation before the concerned Appellate Authority. Looked for any angle, it is not possible to entertain this Writ Petition challenging the order of the Respondent.

4. In fine, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

vjt

To

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