

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2020

CORAM

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

W.P. No. 11694 of 2019

and

W.M.P. No. 11926 of 2019

M/s. LA Providence Systems

Third Floor, No.2, Rajan Street

Parthasarathy Puram, T.Nagar

Chennai - 600 017.

Rep by its Partner

A.Jeyarakash

... Petitioner

-vs-

The Regional Provident Fund Commissioner-I

Employees Provident Fund Organization

37, Royapettah High Road

Chennai - 600 014.

... 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 and quash the order bearing Ref. No. TN/85398/D-25/MAS/PDC-NORTH/2018 dated 24.08.2018 passed by the respondent under Section 7Q and 14B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 directing the Petitioner to pay a sum of Rs.29,85,709/- as damages and interest for the period from July 2015 to April 2016.

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

For Respondent : Mr. V.Sundareswaran,
Standing Counsel

O R D E R
(through video conference)

Heard M/s. Gupta and Ravi, Learned Counsel for the Petitioner and Mr. V.Sundareswaran, Learned Standing Counsel for the Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Respondent by order No. TN/85398/D-25/MAS/PDC-NORTH/2018 dated 24.08.2018 had levied penal damages under Section 14-B with interest under Section 7-Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act' for short) against the Petitioner, who received the copy of that order on 14.09.2018. 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 29.03.2019 challenging the order passed by the Respondent beyond the maximum limitation period of 120 days from the date of receipt of copy of that order.

3. 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. In view of that legal position, it is not possible to entertain this Writ Petition challenging the order of the First Respondent.

4. Learned Counsel for the Petitioner sought to justify the invocation of the discretionary jurisdiction of this Court under Article 226 of the Constitution on the ground that the impugned order is in violation of the principles of natural justice inasmuch as no opportunity of hearing was afforded to the Petitioner before it was passed. On a reading of the impugned order, it is seen that notice dated 02.08.2018 was served on the Petitioner on 06.08.2018, but inspite of receipt of that notice, he had not appeared before the Respondent and the affidavit filed in support of the Writ Petition also does not contain any satisfactory explanation of the Petitioner in that

regard. In such circumstances, the Petitioner cannot take advantage of his own wrong and plead violation of the principles of natural justice, when he has failed to avail the opportunity of personal hearing afforded by the Respondent.

5. In the result, the Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Maya

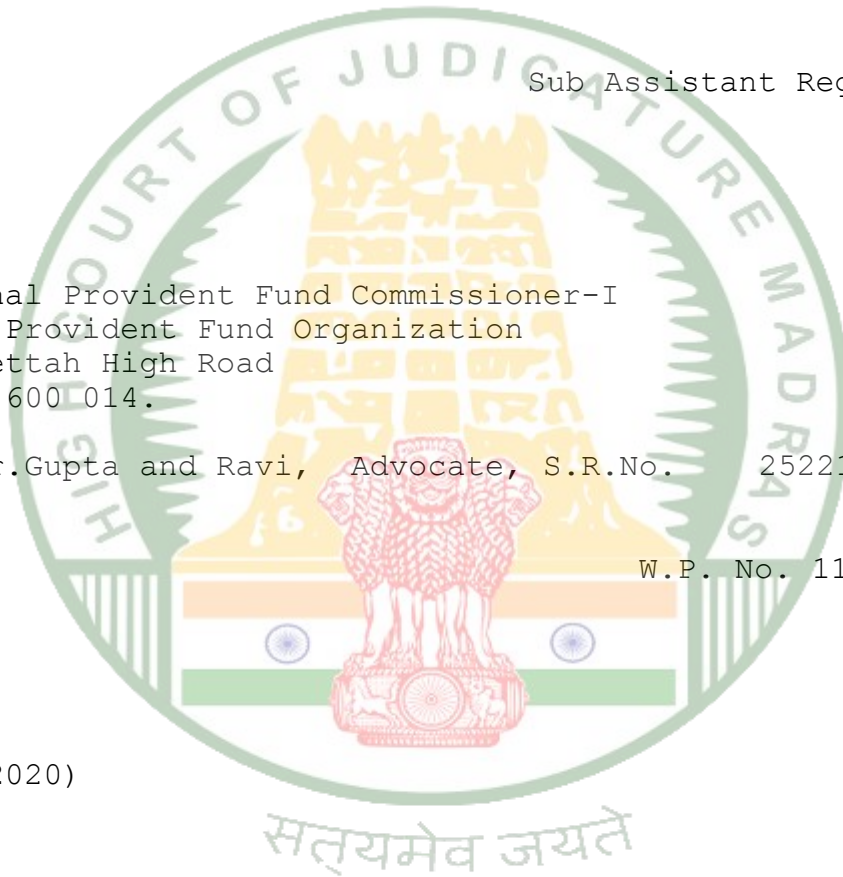
To

The Regional Provident Fund Commissioner-I
Employees Provident Fund Organization
37, Royapettah High Road
Chennai - 600 014.

+1cc to Mr.Gupta and Ravi, Advocate, S.R.No. 25221

W.P. No. 11694 of 2019

SSV(CO)
GN(29/07/2020)



WEB COPY