



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

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

W.P. No. 26498 of 2012

and

M.P. No.2 of 2012

The Assistant Commissioner,
Employees Provident Fund Organisation,
Tambaram,
Chennai - 600 045.

... Petitioner

-vs-

1. The Presiding Officer,
Employees Provident Fund Appellate Tribunal,
New Delhi.

2. M/s.Prompt Logistics and Travels Private Ltd.,
26, 10th Cross Street,
Lakshmi Nagar,
Porur, Chennai - 600 116.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent relating to the impugned order of the First Respondent passed in ATA No.497 (13) 2012 dated 06.08.2012 and quash the same in so far as waiver of 75% of the pre-deposit amount and direct the Second Respondent to deposit the 75% amount of the determined amount by the Petitioner in No.TN/RO/TBM/Enf/T-6/50351/11 dated 21.05.2012.

For Petitioner :	Mr. R.Vishnu for Mr. K.Ramu
For Respondents:	Tribunal (for R-1) No Appearance (for R-2)

O R D E R
(through video conference)

Heard Mr. R.Vishnu, Learned Counsel appearing for the Petitioner and perused the materials placed on record, apart from the pleadings of the parties.



2. There is no representation for the Second Respondent when the matter is called at 3.25 p.m. today.

3. The Second Respondent filed an appeal in ATA No. 497 (13) 2012 under Section 7-I Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the EPF Act' for short) against the Order No.TN/RO/TBM/Enf/T-6/50351/11 dated 21.05.2012 passed by the Petitioner determining the liability for its establishment under Section 7-A of the EPF Act, along with an application under Section 7-O of the EPF Act for waiver of pre-deposit to entertain that appeal. The First respondent by an order dated 06.08.2012, while entertaining that appeal, had stayed the order impugned therein and waived the requirement of pre-deposit. The said order passed by the First Respondent is assailed by the Petitioner in this Writ Petition by contending that reasons have not been recorded in writing for granting complete waiver of pre-deposit in that appeal.

4. Though there is substantial force in such contention raised by the Petitioner, having regard to the lapse of time and the fact that the appeal itself is slated to be taken up shortly for final disposal on 06.09.2021 before the Central Government Industrial Tribunal-cum-Labour Court, who is now the Appellate Authority and to whom the case has been subsequently transferred, this Court is not inclined to interfere with the impugned order in the exercise of discretionary powers of judicial review under Article 226 of the Constitution of India at this advanced stage of that appeal. However, it is hastened to add here that it is mandatory for the Appellate Authority exercising judicial powers to record reasons in writing for granting any waiver or reduction of pre-deposit under Section 7-O of the EPF Act for entertaining appeal and that the impugned order shall not be quoted as precedent for waiving such pre-deposit without assigning any reasons.

In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

kv

Note: Issue order copy by 06.09.2021.



To

The Presiding Officer,
Employees Provident Fund Appellate Tribunal,
New Delhi.

+1cc to Mr.B.Vijaya Kumar, Advocate, S.R.No.42509

W.P. No. 26498 of 2012

CB(06/09/2021)