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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Friday, the Sixth day of August Two Thousand Twenty One

PRESENT

THE HON`BLE MR.JUSTICE M.M.SUNDRESH

AND

THE HON`BLE MRS.JUSTICE S.KANNAMMAL

C.M.P.Nos.10187, 10705, 10574, 11087, 10368, 10319, 10244,
10247, 10866, 11072, 10848, 10204, 10339, 10696 and 10316 of 2020
in W.A.Sr.Nos.60604, 60763, 60600, 60599,60761, 60760, 60572,
60574, 60603, 60762, 60601, 60571, 60602, 60573 and 60764 of 2020

THE ASSISTANT PROVIDENT FUND [PETITIONER IN CMP No.10187,10705,
COMMISSIONER, EMPLOYEES 10574,11087,10368,10319,
PROVIDENT FUND ORGANISATION, 10244,10848,10204, 10339,
REGIONAL OFFICE, 10316 of 2020]
BHAVISHYANIDHI BHAVAN,
DR. BALASUNDARAM ROAD,
COIMBATORE - 641 018.

THE REGIONAL PROVIDENT FUND [PETITIONER in CMP No.10247,
COMMISSIONER-II, EMPLOYEES PROVIDENT 10696 of 2020]
FUND ORGANISATION, REGIONAL OFFICE,
BHAVISHYANIDHI BHAVAN, POST BOX NO.3875,
DR.BALASUNDARAM ROAD,
COIMBATORE 641 018.

THE REGIONAL PROVIDENT FUND [PETITIONER in CMP No.10866,
COMMISSIONER, EMPLOYEES PROVIDENT FUND 11072 of 2020]
ORGANIZATION, REGIONAL OFFICE,
BHAVISHYANIDHI BHAVAN,
DR.BALASUNDARAM ROAD,
COIMBATORE-641 018.

Vs

1 THE PRESIDING OFFICER [1st RESPONDENT IN ALL THE PETITIONS]
EMPLOYEES PROVIDENT FUND APPELLATE TRIBUNAL,
SCOPE MINAR CORE -II, 4TH FLOOR,
LAKSHMI NAGAR, NEW DELHI-110 092.



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M/S TUTTAPULLUM ESTATE NO.2 [2ND RESPONDENT IN CMP No.10187
(TUTTAPULLAM ESTATE-LOWER DIVISION) of 2020]
TUTTAPULLUM POST
THE NILGRIS-643 242.

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T.RAGHURAMAN HUF [2ND RESPONDENT IN CMP No.10705 of 2020]
HAVUKAL ESTATE
KOTAGIRI-643217.
THE NILGIRIS.

M/S.MARIS AGRO PRODUCTS [2ND RESPONDENT IN CMP No.10574 of 2020]
(P) LTD., WARWICK ESTATE,
KOTAGIRI-643 242
THE NILGRIS.

M/S TUTTAPULLAM ESTATE [2ND RESPONDENT IN CMP No.11087 of 2020]
TEA FACTORY
(TUTTAPULLAM ESTATE NO.4)
TUTTAPULLUM POST,
THE NILGIRIS -643 242

M/S.R.NANDAKUMAR-HUF [2ND RESPONDENT IN CMP No.10368 of 2020]
HAVUKAL ESTATE,
KOTAGIRI-643217
THE NILGIRIS.

TUTTAPULLAM ESTATE [2ND RESPONDENT IN CMP No.10319 of 2020]
NO.3, TUTTAPULLAM POST
THE NILGIRIS 643 242.

TUTTAPULLAM ESTATE [2ND RESPONDENT IN CMP No.10244 of 2020]
NO.1, TUTTAPULLAM ESTATE-UPPER DIVISION
TUTTAPULLAM POST, THE NILGIRIS -643 242

M/S.NADUMALAI ESTATE [2ND RESPONDENT IN CMP No.10247 of 2020]
THE PERIA KARAMALAI TEA AND PRODUCE CO.LTD.
VALPARAI 642 127
COIMBATORE DISTRICT
TAMIL NADU.

M/S DEVASHOLA ESTATE [2ND RESPONDENT IN CMP No.10866 of 2020]
BALACOLA POST
THE NILGRIS-643242

M/S. ALLADA AND KODERI [2ND RESPONDENT IN CMP No.11072 of 2020]
VALLEY ESTATE
CHAMRAJ POST,
THE NILGIRIS-643 242

M/S N.UMAPRIYADHASHINI [2ND RESPONDENT IN CMP No.10848 of 2020]
HAVUKAL ESTATE,
KOTAGIRI,
THE NILGIRIS - 643 242



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M/S.HAVUKAL ESTATE [2ND RESPONDENT IN CMP No.10696 of 2020]
NO.1 HAVUKAL ESTATE
KOTAGIRI-643217,
THE NILGRIS

M/S J.KARTHIK NARAYAN [2ND RESPONDENT IN CMP No.10339 of 2020]
DIVISION, WARWICK ESTATE,
KOTAGIRI-643 217
THE NILGIRIS

M/S AKKAMALAI ESTATE [2ND RESPONDENT IN CMP No.10696 of 2020]
THE PERIA KARAMALAI TEA AND PRODUCE CO.LTD.,
VALPARAI-642 127
COIMBATORE DISTRICT
TAMIL NADU.

M/S.ANURADHA DIVISION [2ND RESPONDENT IN CMP No.10316 of 2020]
WARWICK ESTATE
KOTAGIRI-643217.
THE NILGRIS.

Petitions praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to

1.CMP No.10187 of 2020

To condone the delay of 952 days in filing the above WA against the order dt 08/01/2018 in WP No.34452/2017 passed by Honble High court.

2. CMP No.10705 of 2020

To condone the delay of 953 days in filing the above Writ Appeal against the order dated 08.01.2018 in Writ Petition No.34456 of 2017 passed by Honble High Court.

3. CMP No.10574 of 2020

To condone the delay of 776 days in filing the above Writ Appeal against the order dated 08.01.2018 in WP.No.34447 of 2017

4. CMP No.11087 of 2020

To condone the delay of 776 days in filing the above W.A against the order dated 08-01-2018 in W.P.No.34448/2017 passed by Honble High Court and pass such further or other orders as this Honble High Court deems fit.

5. CMP No.10368 of 2020

To condone the delay of 951 days in filing the above WA against the order dt.08/01/2018 in Writ Petition No.34453/2017 passed by Honble High Court.



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6. CMP No.10319 of 2020

To condone the delay of 953 days in filing the above Writ Appeal against the order dated 08.01.2018 in Writ Petition No.34454 of 2017 passed by Honble High Court.

7. CMP No.10244 of 2020

To condone the delay of 971 days in filing the above Writ Appeal against the order dated 19.12.2017 in Writ Petition No.33080 of 2017 passed by Honble High Court.

8. CMP No.10247 of 2020

To condone the delay of 971 days in filing the above Writ Appeal against the order dated 19.12.2017 in WP.No.33082 of 2017.

9. CMP No.10866 of 2020

To condone the delay of 777 days in filing the above Writ Appeal against the order dated 08.01.2018 in Writ Petition No.34451 of 2017 passed by Honble High Court.

10. CMP No.11072 of 2020

To condone the delay of 776 days in filing the above Writ Appeal against the order dated 08.01.2018 in Writ Petition No.34455 of 2017.

11. CMP No.10848 of 2020

To condone the delay of 953 days in filing the above Writ Appeal against the order dated 08.01.2018 in Writ Petition No.34449/2017.

12. CMP No.10204 of 2020

To condone the delay of 971 days in filing the above Writ Appeal against the order dt.19.12.2017 in Writ Petition No.33079/2017

13. CMP No.10339 of 2020

To condone the delay of 950 days in filing the above Writ Appeal against the order dated 08-01-2018 in Writ Petition No.34450 of 2017 passed by Honble High Court

14. CMP No.10696 of 2020

To condone the delay of 953 days in filing the above WA against the order dt.19/12/2017 in Writ Petition No.33081/2017 passed by Honble High Court.

15. CMP No.10316 of 2020

To condone the delay of 953 days in filing the above Writ Appeal against the order dated 08.01.2018 in Writ Petition No.34457 of 2017 passed by Honble High Court.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.R.MEENAKSHI, Advocate for the petitioner in all the petitions and of MR.P.THANGARAJ, ADVOCATE for the 2nd respondent in each of the petitions, the court made the following order:-



[Order of the Court was made by *M.M.SUNDRESH, J.*]

Seeking to condone the delay in filing the appeals, these petitions have been filed by the petitioner being the statutory authority viz., the Assistant Provident Fund Commissioner. The Appellate Authority, by the impugned orders, which were challenged before the learned single Judge, reviewed its earlier orders.

2.The aforesaid orders passed on 18.09.2014 were put to challenge before the learned single Judge after three years. The learned single Judge dismissed the writ petitions at the admission stage on the ground of delay. While laying a challenge, once again there is a considerable delay and therefore, these petitions have been filed to condone the delay.

3.Learned counsel appearing for the petitioner submitted that there is no power of review available to the appellate authority namely, Employees Provident Fund Appellate Tribunal. The Tribunal is a creature of the statute. Even on merit, the second respondent does not have any case. One has to see overwhelming public interest involved as the benefit will ultimately go to the employees. There are other batch of cases involving the same issue. The delay has occasioned in view of the administrative difficulties. As there are substantial issues for adjudication coupled with the fact that the learned single Judge decided the matter primarily on the ground of delay and laches, the delay will have to be condoned.

4.The learned counsel appearing for the second respondent submitted that the power of review is available to the Appellate Authority. The writ petitions themselves have been filed after a period of three years. The delay being huge has not been explained properly. Hence the petitions will have to be dismissed.

5.Length of delay is not a material factor to be considered while considering the application filed invoking Section 5 of the Limitation Act. We do find substantial issues involved in these appeals. We have perused the order of the learned single Judge. The order passed was premised on the ground that the writ petitioners have come to the Court belatedly. The question of delay, laches and acquiescence is not one of law but of fact. It has to be seen from case to case. Taking into consideration the overall facts and circumstances of the cases before us, we are of the view that the larger issue will have to be considered on merit, especially there are other writ petitions pending on the very same issue. However, taking into consideration the continued lethargy on the part of the petitioner, not only by filing the writ petitions belatedly but also filed these appeals with delay, we deem it appropriate to allow all these petitions on condition that the petitioner shall pay a sum of Rs.5,000/- (Rupees Five Thousand only) in each case to the second respondent within a period of four weeks from the date of receipt of a copy of this order, failing which, these petitions shall stand dismissed automatically.



6.It is seen that in some of the cases, there is no representation on behalf of the second respondent. In such of those cases where there is no representation for the second respondent, the petitioner shall send the above amount to the address of the second respondent.

-sd/-

06/08/2021

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Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE PRESIDING OFFICER
EMPLOYEES PROVIDENT FUNDAPPELLATE TRIBUNAL
SCOPE ,MINAR CORE -II, 4TH FLOOR LAKSHMI
NAGAR, NEW DELHI-92

Order

in

C.M.P.Nos.10187, 10705, 10574, 11087, 10368, 10319, 10244,
10247, 10866, 11072, 10848, 10204, 10339, 10696 and 10316 of 2020
in W.A.Sr.Nos.60604, 60763, 60600, 60599,60761, 60760, 60572,
60574, 60603, 60762, 60601, 60571, 60602, 60573 and 60764 of 2020

Date :06/08/2021

From 26.2.2001 the Registry is issuing certified
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RA 12/08/2021