



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM

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

W.P. No. 30430 of 2016
and
W.M.P. No. 26380 of 2016

M/s. Patina Gold Ornaments Pvt. Ltd.,
No. 82, R.K.V. Road,
Opp. Sree Krishna Theatre,
Erode - 638 001,
Rep. by its Director,
Mr. Saleem K.A.

... Petitioner

-vs-

1. The Presiding Officer,
Employees Provident Fund Appellate Tribunal (Bengaluru Bench),
No. 62, 3rd Cross, Industrial Suburb,
Yeshwantpur, 2nd Stage,
Bengaluru - 560 022.
2. The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub Regional Office, S.J. Plaza,
Swarnapuri,
Salem - 636 004.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent in Appeal No. EPFAT(B)/TN/47 of 2016 and quash its order dated 20.07.2016 and consequently direct the First Respondent to entertain the appeal of the Petitioner and dispose of the same on merits.

For Petitioner : Mr. Anand Gopalan
for M/s. T.S.Gopalan & Co.

For Respondents: R1 - Tribunal

Mr. P.K.Panneer Selvam (for R2)



O R D E R

Heard Mr. Anand Gopalan, Learned Counsel for the Petitioner and Mr. P.K.Panneer Selvam, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Second Respondent by Order No. TN/SLM/RO/RPFC/1163/2014 DATED 12.11.2014 had determined the dues of contribution towards provident fund dues of the Petitioner for the period from April 2005 to November 2014 under Section 7-A of the Employees Provident Fund 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 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. It is not in dispute that the Petitioner, who had received the said order, had on 23.06.2016 preferred an appeal in Appeal No. EPFACT (B)/TN/47 of 2016 against it before the Employees' Provident Fund Appellate Tribunal, Bengaluru, which is the Appellate Authority under the Act, beyond the maximum period of 120 days prescribed for the same. The Petitioner has challenged the order dated 20.07.2016 in Appeal No. EPFAT(B)/TN/47 of 2016 passed by the Appellate Authority refusing to entertain the said appeal as time barred, in this Writ Petition.

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 Appellate Authority, or if the Appellate Authority has refused to entertain the appeal preferred after that time limit. As such, when there is no infirmity in the order of the Appellate Authority refusing to entertain the appeal preferred by the Petitioner against the order passed by the Respondent as time barred in accordance with the relevant statutory provisions, it is not permissible to circumvent the legislative intent manifested in that bar created by resorting to invoke the discretionary powers of this Court thereafter.



4. In the result, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vjt

To

1. The Presiding Officer,
Employees Provident Fund Appellate Tribunal
(Bengaluru Bench),
No. 62, 3rd Cross, Industrial Suburb,
Yeshwantpur, 2nd Stage,
Bengaluru - 560 022.
2. The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub Regional Office, S.J. Plaza,
Swarnapuri,
Salem - 636 004.

+1cc to M/s.T.S.Gopalan & Co., Advocate, S.R.No.34796

W.P. No. 30430 of 2016

RK(CO)
SB(17/06/2022)