



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

CORAM

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

W.P. No. 9026 of 2017
and
W.M.P. No. 9942 of 2017

M/s. Sun Beedi Traders,
Rep. By its Managing Partner Mr. Yuvaraj,
Vallatiyur,
Jolarpet - 635 851.

... Petitioner

-vs-

The Assistant Provident Fund Commissioner,
Sub-regional Office,
S-1, TNHB, Phase - III,
Sathuvachari,
Vellore - 632 009.

... Respondent

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to order dated 29.12.2016 passed by the Respondent and Order No. TN/VL/9947/PDC/2016-2017/3303 dated 22.03.2017 passed in Review Petition by the Respondent and quash the same and direct the Respondent to waive the alleged default amount as per the order passed by the Appellate Tribunal dated 01.10.1997.

For Petitioner : Mr. R.Subramanian

For Respondent : Mrs. V.J.Latha, Standing Counsel

O R D E R

Heard Mr. R.Subramanian, Learned Counsel for the Petitioner and Mrs. V.J.Latha, 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. TB/VLR/9947/SDC/2016-17/3999 dated 29.12.2016 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 03.01.2017. The Petitioner had filed Review Petition against that order under Section 7-B of the Act before the Respondent beyond the period of limitation of 45 days prescribed under Rule 79-A of the Employees' Provident Funds Scheme, 1952, which was rejected as time barred by the Respondent by Order No. TN/VL/9947/PDC/2016-17/3303 dated 22.03.2017. The Writ Petition challenges the said order confirming the Order No. TB/VLR/9947/SDC/2016-17/3999 dated 29.12.2016 passed by the Respondent.

3. When it was pointed out that the Petitioner was entitled to appeal against the Order No. TB/VLR/9947/SDC/2016-17/3999 dated 29.12.2016 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, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to file such appeal. He has also filed a memo dated 17.02.2022, which has been placed on record. It is made clear that for the purpose of reckoning limitation for availing the aforesaid remedy, the period from the date of filing of the Writ Petition, viz., 12.04.2017, till the date on which certified copy of this order is made ready by the Registry, shall be excluded.

In the result, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

vjt

To

The Assistant Provident Fund Commissioner,
Sub-regional Office,
S-1, TNHB, Phase - III,
Sathuvachari,
Vellore - 632 009.



Copy To

The Section Officer,
ER Section,
High Court, Madras.

+1cc to Mr.R.Subramanian, Advocate SR.No.11007

W.P. No. 9026 of 2017

AD (CO)
GMY (11/03/2022)