



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.9878 of 2017

and

W.M.P. Nos.10873 and 10874 of 2017

M/s. ATS Chem Equipment (P) Ltd.,
Represented by its Managing Director,
Mr. S.Thangaraj,
C-27, SIDCO Industrial Estate,
Hosur - 635 126.

...Petitioner

-vs-

1. The Regional P.F. Commissioner (Comp-II),
Employees' Provident Fund Organization,
Sub-Regional Office,
Anna Salai, Swarnapuri,
Salem - 636 004.

2. The Assistant P.F. Commissioner,
Employees' Provident Fund Organization,
Sub-Regional Office,
S.J.Plaza, Swarnapuri,
Salem - 636 004.

...Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the First Respondent in CB/SLM/COMP-II/70065/KNG II Dn/2017 dated 27.02.2017 and the consequential proceedings of the Second Respondent in CB/SRO/SLM/ COMP-II/70065/K-II/8F/2017 dated 22.03.2017, quash the same.

For Petitioner : Mr. M.Hariharan

For Respondents: Mrs. R.Meenakshi, Standing Counsel

O R D E R

Heard Mr. M.Hariharan, Learned Counsel for the Petitioner and Mrs. R.Meenakshi, Learned Standing Counsel appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.



2.The First Respondent by Order No. CB/SLM/COMP-II/70065/KNG II Dn/2017 dated 27.02.2017 had determined the contribution payable under Section 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act' for short) by the Petitioner. 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 13.04.2017 challenging Order No. CB/SLM/COMP-II/70065/KNG II Dn/2017 dated 27.02.2017 passed by the First Respondent and consequential attachment Order No. CB/SRO/SLM/ COMP-II/70065/K-II/8F/2017 dated 22.03.2017 under Section 8-F of the Act passed by the Second Respondent.

3.The contention of the Petitioner in this Writ Petition is that in violation of the principles of natural justice, the report of the Enforcement Officer, which had not been furnished before the passing of the impugned order, has been relied which deprived it of the opportunity to deal with the same. However, as the copy of the said report of the Enforcement Officer has been later produced by the Respondents, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to file appeal against the said order before the Appellate Authority and he has made an endorsement to that effect in the court 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., 13.04.2017, 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 Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

vjt



1. The Regional P.F. Commissioner (Comp-II),
Employees' Provident Fund Organization,
Sub-Regional Office,
Anna Salai, Swarnapuri,
Salem - 636 004.

- Copy to

- +1cc to Mr.S.Ravee Kumar, Advocate, S.R.No.10689

NRL (CO)
RGA (11/03/2022)