



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2022

CORAM

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

W.P. No. 2646 of 2017

and

W.M.P. Nos. 2595 and 2596 of 2017

Puducherry Agro Products Food &
Civil Supplies Corporation Ltd.,
Rep. by its Managing Director,
Agriculture Complex, Thattanchavady,
Puducherry-605 009.

... Petitioner

-vs-

The Regional Provident Fund Commissioner-II,
Employees Provident Fund Organisation,
Sub-Regional Office,
No.101, 100 feet Road, Cholan Nagar,
Olandaikeerapalayam,
Puducherry-605 004.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Order bearing No. PDC/PD/513/Regl/2016(Interest) dated 17.11.2016 on the file of the Respondent and quash the same and consequently, direct him to take the 15 days time prescribed under the EPF & MP Act 1952, the EPF Scheme 1952 for payment of the Contributions from the close of the month during which the salaries were actually paid by the Petitioner to its employees from March 2014 to April 2015, calculate the delay, if any, from the 16th day of the succeeding month, determine the interest payable by it under Section 7-Q of the EPF & MP Act 1952 and recover the same.

For Petitioner : Mr. T.M.Naveen

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

O R D E R

Heard Mr. T.M.Naveen, 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. PDC/PD/513/Reg1/2016 (Interest) dated 17.11.2016 determined the liability of the Petitioner to pay interest for delayed remittance of contribution towards provident fund dues under Section 7-Q of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act' for short). Though an appeal in Appeal No. A/PY-05/2016 was preferred against the said order before the Employees' Provident Fund Appellate Tribunal, Bengaluru, it was dismissed following the dictum laid down by the Hon'ble Supreme Court of India in M/s.Arcot Textile Mills Limited -vs- Regional Provident Fund Commissioner [(2013) 16 SCC 1] holding that no appeal against an order under Section 7-Q of the Act can be filed before the Appellate Authority under Section 7-I of the Act. In that backdrop, the Petitioner has filed this Writ Petition challenging the said order dated 17.11.2016 passed by the Respondent.

3. Learned Counsel for the Petitioner contends that the Respondent has to restrict the claim for interest only from the actual date on which payment had been made to the respective employees and the amount as claimed in the impugned order is in contravention of para 29, 32 and 38 of the Employees' Provident Funds Scheme, 1952 and para 7 of the Employees' Deposit-Linked Insurance Scheme, 1976.

4. A plain reading of the aforesaid statutory provisions make it clear that the liability for contribution towards provident fund dues accrues from the date on which salary is payable and not from its actual date of payment as sought by the Petitioner in this case. In such circumstances, the Respondent cannot be faulted in levying interest for the delayed payment from the date on which the salaries had fallen due and the decision of the Division Bench of the Calcutta High Court in Employees' Provident Fund Organization -vs- Birlapur Vidyalaya [(2007) 2 LLN 476] supports the same. Viewed from this perspective, there does not appear to be any justification to interfere with the impugned order in the exercise of discretionary powers of judicial review of the decision-making process under Article 226 of the Constitution.

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

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar



gd/Maya

To

The Regional Provident Fund Commissioner-II,
Employees Provident Fund Organisation, Sub-Regional Office,
No.101, 100ft. Road, Cholan Nagar,
Olandaikeerapalayam,
Puducherry-605 004.

+lcc to M/s.V.J.Latha, Advocate, S.R.No.13160

W.P. No. 2646 of 2017

RGN(CO)
SB(26/05/2022)