



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. 19878 of 2017
and
W.M.P. No. 21475 of 2017

M/s. Vasambadi Estate,
Represented by its Joint Receiver,
Valliappan,
S/o. Ramakrishnan,
aged about 72 Years,
Vasambadi Estate,
Yercaud, Salem District. ...Petitioner

-vs-

Assistant Provident Fund Commissioner,
Swarnapuri,
Salem - 636 04. ...Respondent

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, call for the records passed by the Respondent in the Impugned Order dated 19.06.2017 in No.CB/SLM/SRO/PDC/795/S-5/14B-PROCEEDING/2017 and quash the same.

For Petitioner : Mr.S.Kalyanaraman

For Respondent : Mr.M.Palanimuthu

O R D E R

Heard Mr. S.Kalyanaraman, Learned Counsel for the Petitioner and Mr. M.Palanimuthu, Learned Counsel for the Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Respondent by Order No. CB/SLM/SRO/PDC/795/S-5/14B-PROCEEDING/2017 dated 19.06.2017 had levied penal damages under Section 14-B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act' for short) against 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 31.07.2017 challenging the order passed by the Respondent.

3. When it is pointed out that it is not possible to entertain this Writ Petition in the absence of any acceptable explanation from the Petitioner for not having availed the aforesaid alternative remedy provided under the statute, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to file appeal 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., 31.07.2017, till the date on which certified copy of this order is made ready by the Registry, shall be excluded.

4. 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 (CCC)

//True Copy//

Sub Assistant Registrar

Maya/gd

To

The Assistant Provident Fund Commissioner,
Swarnapuri, Salem - 636 04.

Copy to:

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

(to return the original copy of the
impugned order to the Petitioner under
written acknowledgment after retaining
a copy of the same for record)

+1cc to Mr.S.Kalyanaraman, Advocate SR. No.10139

W.P. No. 19878 of 2017