



W.P.No.29136 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2023

CORAM

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.P.No.29136 of 2018

M/s. Ceeyer Metal Reclamations Private Limited
Represented by its Managing Administrative Mr. V. Arunatiri
S/o. A. Velmurugan,
No.51 & 52, SIDCO Industrial Estate,
Thuvakudi, Trichy-15 ... Petitioner

Vs.

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub Regional Office, PB No.588,
Sree Complex, D Block,
No.18 Madurai Road, Trichy 620 008. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records pursuant to the orders passed by the Employees Provident Fund Appellate Tribunal, Chennai in EPFA 485/2018 dated 07.08.2023, quashing the same and directing the respondent to forbear from taking recovery proceeding based on the orders of the respondent in



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Enf.B4/TN/TR/43441/SRO-TRY/2015 dated 15.09.2015.

For Petitioner : Mr.S. Saravanan
For Respondent : Mr. M. Palanimuthu
Standing Counsel.

ORDER

This writ petition is filed by the petitioner company M/s.CEEYES Metal Reclamations Private Limited represented by its Managing Admin Mr.V.Arunagiri against the impugned order passed by the Employees Provident Fund Appellate Tribunal, Chennai, dated 07.08.2023 in EPFA.No.485/2018. The petitioner is an Engineering Industry in Thuvakudi, SIDCO Industrial Estate, Trichy, engaged in doing job work for Indian Railways.

2.The essential facts of the case are as follows:

2.1.The petitioner company has been regular in remitting the Employees Provident Fund Contribution for all its employees since its inception in 1990 without any default. However, the respondent,



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Assistant Provident Fund Commissioner, Trichy, passed proceedings dated 15.09.2015 for recovery of Rs.3,12,419/- under Section 7(A) of the Employees' Provident Fund and Miscellaneous Provisions Act (hereinafter referred to as the Act) . According to the petitioner, a notice dated 22.07.2013 summoning him was sent to him prior to the passing of the said proceedings in response to which the authorised representative of the petitioner Company met the respondent on 10.07.2015 and submitted all the relevant documents sought for.

2.2. Aggrieved over this proceedings dated 15.09.2015 of the Assistant Provident Fund Commissioner, Trichy, the petitioner appealed before the Employees Provident Fund Appellate Tribunal, Tribunal, New Delhi, under Section 7-I of the Act. This appeal was filed with 75 days delay and was numbered as ATA No.206(13) 2016 and since it pertained to Southern Tribunal, Bangalore, it adjourned sine die vide orders dated 22.02.2016. The Bangalore Tribunal, vide its orders dated 06.03.2017, allowed the release of the order of attachment dated 04.11.2015 passed by the respondent under Section 8F of the Act. Subsequently, the appeal



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was transferred to Employees' Provident Fund Appellate Tribunal at Chennai and renumbered as EPFA 485/2018. It is seen from the order sheet of the appeal that the appeal was admitted subject to the deposit of 25% of the Provident Fund dues vide orders dated 03.04.2017 by the Bangalore Tribunal. However, the Appellate Authority, Chennai, could not get the compliance report in the records which prompted the Tribunal to direct the appellant to furnish a copy of the compliance report vide orders dated 05.07.2019 fixing the hearing on 08.08.2019. There were as many as 8 adjournments between 08.08.2019 and 18.12.2019 but the appellant did not appear. Later the hearings were scheduled for 25.03.2020, 06.07.2020, 12.11.2020 and 24.03.2021 and yet the appellant did not turn up. The compliance report also was not filed. Only the counsel for the respondent attended all the hearings. He was not in a position to confirm the compliance. Finally, on 05.04.2021 neither the appellant nor the respondent appeared. Thus, the Appellate Authority was constrained to dismiss the appeal for non compliance. It was also mentioned in the order of dismissal dated 07.08.2023 that the Bangalore Tribunal was lenient to allow admission of the appeal by scaling down



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the deposit amount to 25% from 75% and despite many opportunities afforded to the appellant, the appellant did not turn up before the authority. The present writ petition is against the impugned order dated 07.08.2023 of the Tribunal.

3. Mr.S. Saravanan, learned counsel for the petitioner has put up a peculiar defence that the earlier counsel was responsible for all the mess and that it was never his intention to default. He has also cited that due to administrative reasons he was unable to follow up the case. He has also taken a plea that the petitioner company being a Small Scale Industry was badly affected due to change in the policy of the Government and also due to the Covid 19 pandemic. He has therefore prayed for quashing the impugned order.

4. Per contra, Mr. M. Palanimuthu, learned Standing counsel for the respondent would contend that the petitioner was a wilful defaulter and that too after availing all concessions from the respondent.

Initially, in the Employees' Provident Fund Appellate Tribunal at



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Bangalore he sought for release of order of attachment dated 04.11.2015 and scaling down of the initial deposit amount to 25% instead of the stipulated 75%. Despite all these, it was argued, the petitioner neither deposited 25% of the default amount nor appeared before the Tribunal at Chennai. The counsel pleaded for dismissing the petition.

5. There appears to be no merit in the case of the petitioner. He has chosen the easy way of putting the blame on the earlier counsel for not complying with the orders of the Tribunal to deposit 25% of the default amount and also wilfully absenting himself in all the hearings of the Tribunal at Chennai. Such recalcitrant attitude cannot be condoned or accepted. In the result, the Writ Petition is dismissed. No costs.

16.10.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl/bga



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