



W.P.(MD).No.16518 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD).No.16518 of 2022

and

W.M.P.(MD).Nos.11939 and 11941 of 2022

The Management,
MM-16, The Pudukkottai Urban
Co-operative Stores Limited,
Represented by its Managing Director,
S.Kumar

... Petitioner

Vs.

1.The Presiding Officer,
Employees Provident Fund / Appellate Tribunal
Cum CGIT Cum Labour Court,
Chennai.

2.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub Registrar Office,
Post Box No.588,
Sree Complex, D.Block 18,
Madurai Road,
Trichy.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the second respondent in his proceedings No.C12/TN/27780/PDC/SRO-TRY/14B/2014 dated 10.06.2014 and consequently the Appeal order passed by the first respondent in EPFA Order



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No.574/2018 dated 18.02.2022 and consequently the first respondent proceedings Nil dated 28.03.2022 and quash the same on the ground that the same is arbitrary, illegal and without any legal basis.

For Petitioner : Mr.S.Karthik
For R-1 : No Appearance.
For R-2 : Mr.V.S.R.Venkateshvaran,
Standing Counsel.

ORDER

When the petitioner herein had filed an appeal as against the order passed by the second respondent for recovery of a sum of Rs.4,06,432/- under Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the Employees Provident Fund Appellate Tribunal had dismissed the appeal for default on 18.02.2022.

2. Under Rule 15 of the EPF Appellate Tribunal (Procedure) Rules, 1997, the restoration application requires to be filed within a period of one (1) month from the date of dismissal. However, the petitioner claims to have filed the application for restoration on 24.03.2022, together with a miscellaneous petition seeking for condonation of delay of seven days in preferring the restoration application. Through the proceedings dated 28.03.2022, the Tribunal had rejected the restoration petition as barred by limitation.



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3. Strictly speaking, the order of rejection by the Tribunal on the ground of limitation cannot be found fault with in view of the limitation prescribed under Rule 15. However, the learned counsel for the petitioner submits that owing to the COVID-19 pandemic situation, the petitioner was unable to file the restoration application in time and that they are willing to co-operate with the proceedings before the Tribunal, if an opportunity is granted to them. I am of the view that a sympathetic approach could be extended in the instant case by calling upon the Tribunal to take up the petitioner's application for restoration and deal with it in accordance with law, by invoking the powers under Article 226 of the Constitution of India.

4. In the light of the above observations and without going into the merits of the grounds raised by the petitioner either in this Writ Petition or in the application filed by him, seeking for condonation of delay / restoration of the appeal, the petitioner is granted liberty to re-present his petition seeking for condonation of delay in filing the restoration application within a period of ten (10) days from the date of receipt of a copy of this order. On receipt of such a re-presentation, the Employees Provident Fund Appellate Tribunal shall take up the condone delay petition filed in the application seeking for restoration of the appeal and pass appropriate orders in accordance with law, without reference to the limitation prescribed under Rule 15 of the EPF Appellate Tribunal



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(Procedure) Rules, 1997. It is made clear that in case the petitioner does not re-present the papers before the Tribunal within the period of ten (10) days prescribed by the Court, the EPF Organization is at liberty to proceed for recovery of the amount due under Section 14 of the Act in accordance with law.

5. This Writ Petition stands disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

17.08.2022

Index : Yes / No
Internet : Yes/ No
Lm

To

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M.S.RAMESH, J.

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