



WP(MD)No.16771 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.08.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)No.16771 of 2022

M/s.Parvathi Fire Works Industries,
S.No.1064, Anuppankulam Village,
Sivakasi East,
Virudhunagar District,
Through its Partner.

... Petitioner

/vs./

The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organization,
Sub Regional Office No.1,
Lady Doak College Road – Chokkikulam,
Madurai – 625 002.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records from the file of the CGIT cum Labour Court, Chennai herein EPFA No.511/2017 and to quash the Final Order dated 23.05.2022 and also direct the EPF Appellate Tribunal to admit the appeal as per the previous order dated 12.04.2019.



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For Petitioner : Mr.C.Karthikeyan

For Respondent : Mr.A.John Xavier

Standing Counsel

ORDER

The order under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 [hereinafter referred to as "the Act" for brevity] was challenged before the Appellate Tribunal in EPFA 511/2017/ATA93(13)/2015.

2.As per Section 7-O of the Act, there is a pre-condition of a deposit of 75% of the amount determined under Section 7A of the Act for preferring an appeal. Proviso to Section 7-O of the Act, empowers the Tribunal to waive or reduce the deposit prescribed under Section 7A of the Act.

3.Rule 7 of the Tribunal (Procedure) Rules, 1997 prescribes that the Tribunal shall record its reasons for waiving or reducing the pre-deposit amount prescribed under Section 7A of the Act.



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4. In the instant case, the petitioner had filed an application seeking for waiver of the pre-deposit amount and the Tribunal had reduced the deposit amount from 75% to 30%. However, the petitioner herein had failed to comply with such an order of deposit of 30% amount determined under Section 7A of the Act and the Tribunal, after taking into account the fact that the matter has been prolonged for more than three years at the instance of the petitioner, had rejected the petitioner's appeal. This order is put under challenge in the present writ petition.

5. Though the petitioner herein had raised several grounds challenging the order, the learned counsel appearing for the petitioner submitted that he has a fair chance of success in the appeal before the Tribunal and if some leniency is extended, he would undertake to deposit the amount determined by the Tribunal.



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6.This Court had taken note of the fact that though the Tribunal had entertained the waiver application and had reduced the pre-deposit to 30% from 75%, the petitioner had failed to comply with the same for more than three years and therefore, if the pre-deposit of 30% of the amount determined under Section 7A of the Act is increased to 40%, with a consequential direction to the Tribunal to take the appeal on file, the ends of justice could be secured.

7.Accordingly, the impugned order dated 23.05.2022 on the file of the CGIT cum Labour Court & Employees Provident Fund Appellate Tribunal, Chennai, is set aside. Consequently, there shall be a direction to the petitioner herein to deposit 40% of the amount determined by the respondent under Section 7A of the Act, before the Tribunal within a period of one month from the date of a copy of this order and on such deposit, the Tribunal shall take up the appeal in EPFA 511/2017/ATA93(13)/2015 forthwith and dispose of the same in accordance with law, preferably, within a period of six (6) months from the date of deposit. This Writ Petition stands ordered accordingly.



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8. In view of the matter being remanded back to the Tribunal, the respondent shall not take any coercive steps till the appeal is taken up on file. No costs.

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Index : Yes / No
Internet : Yes / No
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To:

1. CGIT cum Labour Court & Employees
Provident Fund Appellate Tribunal, Chennai,
2. The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organization,
Sub Regional Office No.1,
Lady Doak College Road – Chokkikulam,
Madurai – 625 002.



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M.S.RAMESH, J.

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Order made in
W.P.(MD)No.16771 of 2022

Dated:
12.08.2022