



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.2088 of 2023
and W.M.P No.2168 of 2023

M/s.Shree Pavana Garments,
Rep. by its Proprietrix, Mrs.R.Vimaladevi,
No.4/449-A, Eari Medu, Old Shriram Theatre,
Cheyur, Avinashi, Tirupur – 641 655.

Petitioner

vs.

The Regional Provident Funds Commissioner-II,
The Employees' Provident Fund Organization,
District Office, 497, 1st Floor,
M/s.Muthusamy & Bros Industrial Complex,
Palladam Road, Tiruppur – 641 604.

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of Order No. CBE/ DO- TPR/ CC- 23/ 1058238/ 7A/ 2022- 202/ 933 under Section 7A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 dated 4.07.2022 and order No.CBE/DO-TPR/CC- 23/1058238/ 7A/ 2022- 23/1775 under Sub Section (1) of Section 7-B of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 dated 11.10.2022 passed by the respondent and quash the same.

For Petitioner : Mr.L.Palani Muthu

For Respondent : Ms.Meenakshi



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Standing Counsel

ORDER

This writ petition has been filed challenging the order passed by the respondent under Sub Section (1) of Section 7(B) of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (herein after called as “Act”), refusing to entertain the review petition filed by the petitioner to review the earlier order passed under Section 7A of the Act, dated 04.07.2022.

2.Heard Mr.L.Palani Muthu, learned counsel appearing on behalf of the petitioner and Ms.Meenakshi, learned Standing Counsel appearing on behalf of the respondent.

3.The learned counsel for the petitioner submitted that the writ petition was filed before this Court mainly on the ground that the unit itself was closed on 30.11.2018 and the contributions were paid till the closure of the unit. However, the respondent while passing the orders under Section 7A of the Act, dated 04.07.2022, erroneously calculated the contributions upto April 2019. On this short ground, a review petition was also filed before the respondent and the respondent refused to entertain the petition, since it was filed beyond the period of limitation.



4. In the considered view of this Court, an order passed under Section 7A of the Act can be challenged by way of filing an appeal. Even where a review petition is dismissed or rejected, an appeal can be filed against that order as if the order that was passed under review were the original order passed, under Section 7A of the Act. Hence, the grievance of the petitioner can always be agitated by filing an appeal as provided under Section 7B(5) of the Act.

5. Where the petitioner is having an efficacious alternative remedy, this Court is not inclined to entertain the writ petition and whatever is the grievance of the petitioner, the same can be agitated only by way of filing of an appeal.

6. In view of the above, this Court is not inclined to entertain this writ petition. However, liberty is granted to the petitioner to file an appeal against the order passed by the respondent. The appeal shall be filed before the competent authority/tribunal, within a period of two weeks from the date of receipt of copy of this order.



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N. ANAND VENKATESH, J.

SSR

7.The Registry is directed to return back the original certified copy of the order passed by the respondent to the learned counsel for the petitioner to enable the petitioner to file an appeal.

8.In the result, this writ petition is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

30.01.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
SSR

To

The Regional Provident Funds Commissioner-II,
The Employees' Provident Fund Organization,
District Office, 497, 1st Floor,
M/s.Muthusamy & Bros Industrial Complex,
Palladam Road, Tiruppur – 641 604.

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