



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21057 of 2023

M/s.Anjappar Chettinad AC Restaurant
Rep by its Maruthu Pandian,
#17/35 Subrabath Flats,
A-Thiyagraya gramani street,
T.Nagar, Chennai-600 017.

.. Petitioner

Vs.

1. The Regional Provident fund commissioner-II,
Employees Provident Fund Organization,
Steel Plant Road, Dalavaipatti
Salem-632 602.

2. The Recovery Officer,
Employees Provident Fund Organization,
Steel Plant Road, Dalavaipatti
Salem-636 302.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ in particular a Writ of Certiorari or any other Writ, Order or direction, calling for record of the 1st respondent to quash the impugned order No.CB/RO/SLM/PDC/96392/S-V/14-B Proceedig/2022 Dated 27.09.2022 passed u/s 14B of the EPF & MP Act, 1952 for Rs.2,50,073/-.



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For petitioner : Mr.G.Babu Rajendran

For Respondents : Mr.P.K.Panneer Selvan for R1 to R2.

ORDER

Assailing the impugned order of the 1st respondent, the petitioner has filed this Writ Petition praying this Court to quash the impugned order of the 1st respondent.

2. It is the case of the petitioner that in view of the belated remittance of contributions under Employees Provident Funds and Miscellaneous Provisions Act, the petitioner has been issued with the impugned assessment order under Section 14-B of the Act. Challenging the same, the present Writ Petition has been filed.

3. Learned counsel for the petitioner submitted that admittedly, there was a delay in remittance of Contribution under the Act on account of the financial crisis during the period of COVID pandemic. However, as against the order of assessment, the petitioner has a right to prefer an appeal



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before the appellate authority within a period of 60 days in terms of Section 71 of the Employees Provident Funds Appellate Tribunal (Procedure) Rule 1997, however, due to pandemic the petitioner could not prefer the appeal on time for which this petition has been filed.

4. Learned counsel appearing on behalf of respondents 1 & 2 did not dispute the submission of the learned counsel for the petitioner insofar as the entitlement of the petitioner to prefer an appeal within the period of limitation of 60 days and a further period of 60 days along with the petition for condoning the delay. However, the petitioner has approached this Court after a lapse of 270 days which is beyond the period of limitation. Hence, the claim of the petitioner for condonation of delay cannot be considered as the appellate authority cannot entertain the appeal beyond the period of limitation of 120 days and this Court cannot accede to the request of the petitioner when the petitioner has not acted diligently.

5. This Court, heard the learned counsel appearing on either side and perused the material available on record.

6. It is the admitted case of the petitioner that there was a delay in



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remittance of contributions under the Act. However, it is the claim of the petitioner that as against the order of assessment he is entitled to prefer an Appeal under Section 7 I of the Act within the period of limitation of 60 days and within an extended period of another 60 days by seeking condonation of delay.

7. However, it is evident from the materials on records that the petitioner has approached this Court after an inordinate delay of 270 days that too without filing any appeal, the petitioner has not chosen to prefer an appeal within the period of limitation or even the extended period. Even as per the statute, the appellate authority has no power to entertain the appeal filed beyond the period of 120 days. If this Court accedes to the relief prayed for by the petitioner, it would not only be stepping into the shoes of the appellate authority but would also be an act beyond the statute. Further, the petitioner has not shown any exceptional circumstance which warrants the invocation of the extraordinary jurisdiction of this Court. When the petitioner has failed to exercise diligence in preferring the appeal on time, this Court cannot grant any concession to the petitioner by invoking its extraordinary jurisdiction. Further, no sufficient cause has been shown for



the inordinate delay. In such view of the matter, this Court is not inclined to grant relief as sought for by the petitioner and this Writ Petition deserves to be dismissed.

8. For the reasons aforesaid, this Writ Petition is devoid on merits and the same is dismissed accordingly. There shall be no order as to costs.

17.07.2023

NHS

Index : Yes / No

Internet : Yes / No

Speaking Order/Non-Speaking Order

To

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M.DHANDAPANI, J.



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