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W.P.No.24467 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 18.08.2023**

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

**W.P.No.24467 of 2023**

**and**

**W.M.P.No.23890 of 2023**

Sri Nandhanam Educational and Social Welfare Trust,  
Represented by its Chairman PMN.Mohan Krishnaa,  
Nandhanam Nagar, Molagarampatti, Tirupattur,  
Tirupattur District – 635 602.

... Petitioner

Vs.

Assistant Commissioner (Compliance),  
Employees Provident Fund Organisation,  
Regional Office, S-1, TNHB, Phase III,  
Sathuvachari, Vellore – 632 009.

...Respondent

**Prayer:** Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records in impugned order in file No. TVBL.R0038824000/ENF.DIV-III/2020-21/1772 dated 19.03.2021 under Sec 7A of EPF Act on the file of respondent and the impugned order in file No.TB. VI.R/38824/ENF/DIV-III/2022/2054 dated 30.08.2022 in review in under Sec.7B of EPF Act on the file of respondent and quash the same.



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For Petitioner : Mr.B.Manoharan

For Respondent : Mr.R.Thirunavukarasu

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### **ORDER**

This writ petition has been filed seeking for issuance of a writ of Certiorari to call for the records in impugned order in file No.TVBLR0038824000/ENF.DIV-III/2020-21/1772 dated 19.03.2021 under Sec 7A of EPF Act on the file of respondent and the impugned order in file No.TB/VLR/38824/ENF/DIV-III/2022/2054 dated 30.08.2022 in review in under Sec.7B of EPF Act on the file of respondent and quash the same.

2. The case of the petitioner is that the petitioner Trust, namely Sri Nandhanam Educational and Social Welfare Trust has established one educational Institution in the name of Sri Nandhanam College of Engineering and Technology in Tirupattur District during the year 2001. The petitioner Trust is promptly paying its statutory dues to the respondent. However, the respondent issued summons under Section 7A of the Employees' Provident



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Funds and Miscellaneous Provisions Act, 1952 (in short 'the Act') for the period from 2011 to 2014. Except few hearings, the petitioner's representative appeared and submitted detailed reply. Thereafter, the respondent passed an order directing the petitioner Trust to remit a sum of Rs.50,56,539/- (Rupees Fifty Lakhs Fifty Six Thousand Five Hundred Thirty Nine only) as Provident Fund (PF) dues vide order dated 19.03.2021, against which, the petitioner Trust filed a review application under Section 7B of the Act on 04.05.2022, however, the same was rejected vide impugned order dated 30.08.2022. Challenging the impugned orders passed by the respondent under Sections 7A and 7B of the Act, the above writ petition has been filed before this Court.

3. The learned counsel for the petitioner submits that, without providing any opportunity to the petitioner Trust, the respondent has passed the order under Section 7A of the Act. Though the petitioner Trust was promptly paying the PF dues for the employees who worked in the petitioner Trust, however, without considering the documents filed by the petitioner in accordance with the Act, the respondent/original authority has passed the



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order under Section 7A of the Act, which is *per se* unsustainable.

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Accordingly, he prays for allowing the above writ petition.

4. The learned counsel appearing for the respondent submits that, the order in original was passed under Section 7A of the Act on 19.03.2021. Aggrieved by the same, the petitioner Trust filed a review application on 04.05.2022 in terms of Section 7B of the Act. However, as against the order of the original authority, dated 19.03.2021, there is an effective appeal remedy available under Section 7 I of the Act within a period of 60 days, if not filed, appeal has to be filed within another 60 days. However, beyond 120 days, the appellate authority have no power to entertain the appeal. Hence, the petitioner Trust is not entitled to file an appeal beyond the limitation period of 120 days. Accordingly, he prays to dismissal of the present writ petition.

5. Heard the learned counsel for the parties and perused the materials available on record.



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6. Admittedly, the respondent passed an order dated 19.03.2021 under Section 7A of the Act to remit the PF dues of Rs.50,56,539/- payable by the petitioner Trust. Subsequently, the petitioner filed a review application under Section 7B of the Act on 04.05.2022 after a lapse of 120 days before the appellate authority and the same was dismissed on 30.08.2022.

7. As rightly pointed out by the learned counsel appearing for the respondent that, as against the order passed by the respondent dated 19.03.2021, there is an effective appeal remedy available before the appellate authority under Section 7 I of the Act within a period of 120 days. However, beyond the limitation period of 120 days, the appellate authority have no power to entertain the appeal. Therefore, this Court cannot condone the delay under statutory limitation prescribed in the Act. Hence, the petitioner Trust is directed to deposit the entire demand amount in 12 equal monthly installments, the first of which shall start from 05.09.2023 and the remaining shall be paid on or before the 5<sup>th</sup> day of every English calendar month, failing



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which, it is open to the respondent to take appropriate action against the petitioner Trust in the manner known to law.

8. With the above directions and observations, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

**18.08.2023**  
(<sup>1</sup>/<sub>2</sub>)

Index : Yes / No

Speaking Order : Yes / No

NCC: Yes / No

**Note: Issue order copy on or before 24.08.2023.**

To

The Assistant Commissioner (Compliance),  
Employees Provident Fund Organisation,  
Regional Office, S-1, TNHB, Phase III,  
Sathuvachari, Vellore – 632 009.



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**M.DHANDAPANI,J.**

sp

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(<sup>1</sup>/<sub>2</sub>)



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**W.M.P.No.23889 of 2023**

**in**

**W.P.No.24467 of 2023**

**M.DHANDAPANI, J.**

Dispensed with for the present.

**18.08.2023**

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(2/2)