



W.P.No.23679 of 2017

M. DHANDAPANI, J.

This writ petition is listed under the caption, 'for being mentioned' at the instance of the learned counsel for the petitioner.

2. It is submitted by the learned counsel for the petitioner that in the order dated 16.08.2023, in Paragraph No.7, the ESI contribution would be to the tune of Rs.37,50,094/- (Rupees thirty seven lakhs fifty thousand and ninety four only) instead of Rs.50,00,000/- and hence, prays for necessary correction in the order dated 16.08.2023.

3. It is further submitted that this Court directed the petition management to make the first installment on or before 05.12.2023 and prays for extension of the said period.

4. In view of the above, the amount shall be corrected in Paragraph No.7 as **Rs.37,50,094/- instead of Rs.50,00,000/- “and “the first installment shall be paid on or before 15.02.2024”**.

5. Accordingly, Registry is directed to issue fresh copy of the order after making necessary corrections.

09.02.2024

RR



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2023

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.23679 of 2017

& W.M.P.Nos.24851 & 24852 of 2017

M/s.Taurus GKK Leathers Private
Limited rep by its Authorised Signatory
M.S.G.Bhuvan Kumar,
No.40/7, Ramakrishnan Street,
North Usman Road,
Chennai-600 017.

...Petitioner

Vs

1. The Presiding Officer,
Central Government Industrial Tribunal cum Labour Court,
Shastri Bhavan, Chennai.
- 2.The Assistant Provident Fund Commissioner/Recovery Officer
Employees Provident Fund Organization,
Sub Regional Office,
31, Filter Bed Road Vellore-632 001.
- 3.The Regional Provident Fund Commissioner II
& Recovery Officer
Office of the Recovery Officer,
Employees Provident Fund Organisation,
Sub Regional Office,
31, Filter Bed Road Vellore-632 001.

...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of certiorarified mandamus or any other appropriate writ or direction in the nature of Writ or order by calling for the records of the 1st respondent Tribunal in its Docket order dated 18.08.2017 and quash the same and consequently direct the 1st respondent tribunal to decide the appeal on merits and in accordance with law.



For Petitioner : Mr.N.Balamuralikrishnan

For Respondents-2 & 3 : Mr.R.Thirunavukkarasu

WEB COPY

ORDER

Aggrieved by the impugned order of the 1st respondent/Appellate Tribunal, the petitioner management has filed this Writ Petition.

2. It is the case of the petitioner management that proceedings, were initiated against the petitioner management under Section 14B and 7Q of the Employees Provident Fund and Miscellaneous Provisions Act for damages caused in view of belated contributions and Interest for the period from March 2009 to October 2014, pursuant to which, a final order came to be passed by the 2nd respondent on 16.01.2017 directing the petitioner management to pay a sum of Rs.25,30,767/- towards damages under Section 14 B of the Act and a further sum of Rs.12,19,327/- towards interest under Section 7Q of the Act. Subsequently, vide order dated 15.06.2017, an order of attachment came to be passed by the 3rd respondent for recovery for a sum of Rs.37,50,094/-. Against which, the petitioner preferred an appeal before the 1st Respondent/EPF Appellate Tribunal, which has been rejected by the impugned order dated 18.08.2017 on the ground of delay. As against the said rejection order, the petitioner has come up with this Writ Petition.

3. Learned counsel for the petitioner management would submit that admittedly, there was a delay in remittance of Contribution under the Act on

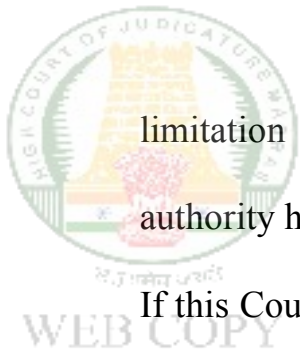


account of the financial loss incurred by the petitioner management. However, an opportunity was given to the petitioner before deciding the appeal. Hence, the act of the respondent in rejecting the appeal on the ground of delay without providing a fair opportunity to the petitioner is wholly unsustainable. Accordingly, he prayed for allowing this Writ Petition.

4. Learned counsel appearing on behalf of respondents 2 & 3 would submit that the petitioner has 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 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 for the petitioner as well as the learned counsel appearing for the respondents 2 & 3 and perused the materials available on record.

6. It is the admitted case of the petitioner that there was a delay in remittance of contributions under the Act. It is seen from the materials on records that the order of attachment has been passed, the petitioner has approached this



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. However, the petitioner has to necessarily pay the ESI contributions to the respondents.

7. In view of the above, the petitioner management is directed to pay the ESI contribution to the tune of **Rs.50,00,000/-** without interest, after deducting the amount which was already deposited, by way of 10 equal instalments, of which the first instalment shall be paid on or before 05.12.2023 and the subsequent instalment shall be paid on the **5th day of every subsequent month**. In case of any failure on the part of the petitioner management in remitting the amount as ordered by this Court within the prescribed time limit, the respondent authorities are at liberty to recover the outstanding dues in the manner known to law.



8. This Writ Petition stands disposed of with the above observations and directions. There shall be no order as to the costs. Consequently, the connected miscellaneous Petitions are closed.

16.08.2023

Index : Yes (or) No
Neutral Citation : Yes (or) No

NHS

To

- 1.The Assistant Provident Fund Commissioner/Recovery Officer
Employees Provident Fund Organization,
Sub Regional Office,
31, Filter Bed Road Vellore-632 001.
- 2.The Regional Provident Fund Commissioner II
& Recovery Officer
Office of the Recovery Officer,
Employees Provident Fund Organisation,
Sub Regional Office,
31, Filter Bed Road Vellore-632 001.



WEB COPY



M.DHANDAPANI,J

NHS

W.P.No.23679 of 2017
& W.M.P.Nos.24851 & 24852 of 2017

16.08.2023