



W.P.(MD).No.21685 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.10.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.21685 of 2023

and

W.M.P(MD)No.18080 of 2023

M/s.Sree Senthil Velavan Chambers,
Through its Managing Partner,
R.Dhanasekaran.

... Petitioner

Vs.

The Regional Provident Fund Commissioner II,
Employees Provident Fund Organization,
District Office,
Natham Road,
Bava Lodge,
Dindigul-624 003.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records from The Regional Provident Fund Commissioner, Dindigul and impugned order passed by the respondent made in DO/DGL Compliance/1624184/M13/2023, dated 14.08.2023 and quash the same and directing the respondent to entertain the review application filed by the petitioner under Section 7(B) (1) of the EPF Act.



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For Petitioner : Mr.A.Ramesh

For Respondent : Mr.T.Anwar Sameem
Standing Counsel

ORDER

The present writ petition has been filed challenging the order passed by the respondent herein under Section 7B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

2. The petitioner had suffered an order under Section 7A of the EPF and MP Act, 1952 on 19.05.2023, wherein the writ petitioner was directed to pay a sum of Rs.13,22,392/- towards contribution for the period from July 2017 till March 2019. Alleging that there are errors in the said order, the petitioner had filed an application under Section 7B of the said Act to review the order. The respondent herein had passed an order on 14.08.2023, dismissing the said review application on the ground that the employer has not brought to the notice of the authority any mistake or error apparent on the face of the record. The reviewing authority has also found that the employer has not produced any new evidence, which was not within his knowledge at the time of enquiry



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conducted under Section 7A of the Act. Challenging the said order, the present writ petition has been filed.

3. The learned Counsel appearing for the writ petitioner had contended that there are two employees by name Manikandan in their Organisation. One of the employees, namely, Manikandan, son of Bojan is drawing a salary of more than Rs.15,000/- and he is out of coverage of the Act. Even though the said fact was brought to the notice of the respondent herein, the same has not been properly appreciated by the respondent and they have proceeded to pass the order under Section 7A. This error was pointed out during the review proceedings and in the review proceedings without considering the said contention, the review petition has been dismissed on technical grounds. Hence, he prayed for allowing the writ petition and to remit the review application for fresh hearing to the authorities.

4. Per contra, the learned Standing Counsel appearing for the respondent Organisation submitted that the order passed in the review application has got merged with the original order passed under Section 7A of the Act and the petitioner is at liberty to challenge both the orders before the Tribunal. He



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further pointed out that the period of limitation for filing an appeal is 60 days from the date of receipt of a copy of the order. However, the Tribunal has got powers to extend the period to condone the delay of further period of 60 days, if sufficient ground is made out. He further pointed out that the petitioner has not brought to the notice of the respondent any error on the face of the record except merely submitting that the non coverage of one of the employees has not taken into consideration.

5. I have carefully considered the submissions made on either side.

6. A perusal of the grounds of review raised by the writ petitioner herein would reveal that the petitioner has attempted to reargue the application before the respondent herein, which is not permissible by an application under Section 7B of the Act. Therefore, this Court does not find any merits in the present writ petition. However, the writ petitioner is at liberty to file an appeal as against the order under Section 7A of the Act before the Tribunal. The Tribunal is directed to receive the appeal, if it is presented on or before 31.10.2023, without rejecting the same citing the ground of limitation.



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7. With the above said observation, this writ petition stands disposed of.

There shall be no order as to costs. Consequently, connected Miscellaneous
Petition stands closed.

06.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

The Regional Provident Fund Commissioner II,
Employees Provident Fund Organization,
District Office,
Natham Road,
Bava Lodge,
Dindigul-624 003.



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R.VIJAYAKUMAR, J.

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