



W.P.(MD).No.23100 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.23100 of 2023

M/s.K.R.T.A Varatharaj Educational and
Charitable Trust,
In R/o Renganayagi Varatharaj College of Engineering,
Salvarpatti - Thayilpatti Post,
Sivakasi-626 128,
Virudhunagar District,
Through its Secretary.

... Petitioner

Vs.

- 1.The Registrar,
Central Government Industrial Tribunal
cum Labour Court,
1st Floor - 'B' Wing,
26, Haddows Road - Sastri Bhavan,
Chennai-600 006.
(Appellate Authority under the EPF Act)
- 2.The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organization,
District Office - AKM Complex,
Old Virudhunagar Road,
Sivakasi-626 189.



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3.The Recovery Officer,
Employees' Provident Fund Organization,
District Office - AKM Complex,
Old Virudhunagar Road,
Sivakasi - 626 189.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent, Appellate Authority under the EPF Act, to entertain the appeal under Section 7 (D) of the Employees' Provident Fund Act, 1952 as against the orders passed by the second respondent under Section 7A(1) (b) of the EPF Act in No.MD/MDU/DO/SVKS/59769/7A/Diary No.523/2019/M-9/2022, dated 01.01.2023 claiming contribution to the tune of Rs.28,40,712/- for the period 08/2018 to 05/2019 for regular employees and for the period from 06/2013 to 05/2019 relating to 8 employees.

For Petitioner : Mr.R.Sreenivasan

For Respondents : Mr.S.Anwar Sameem
Standing Counsel

ORDER

The present writ petition is filed seeking to direct the first respondent appellate authority (i.e.,) the Employees Provident Fund Appellate Tribunal, Chennai under the Employees' Provident Fund Act, 1952 to entertain the appeal under Section 7D of the Employees' Provident Funds and Miscellaneous



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Provisions Act, 1952 as against the orders passed by the second respondent under Section 7A of the EPF and MP Act, 1952 in diary No.523 of 2019, dated 01.01.2023 claiming contribution to a tune of Rs.28,40,712/- for the period 08/2018 to 05/2019 for regular employees and for the period from 06/2013 to 05/2019 relating to eight employees.

2. Heard the learned Counsel for the petitioner and the learned Standing Counsel for the respondents and carefully perused the materials available on record.

3. The petitioner College is an establishment brought under the purview of EPF and MP Act, 1952. The enforcement officers, P.Gomathi Sundaravel and P.Ulaganathan, the Inspectors appointed under Section 13 of the Act conducted an inspection in the establishment on 12.06.2019 and submitted the inspection report, dated 12.06.2019 based on the complaints received from various complainants. According to the inspection report, the petitioner employer had failed to remit the Employees Provident Fund, Employees Pension Fund, Insurance Fund Contributions, Employees Provident Fund and employees deposit linked insurance administrative charges due for the period



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from 06/2013 to 05/2019 including EPF and allied dues in respect of eight employees and regular dues for the default period from 08/2018 to 05/2019 in accordance with the provisions of the Act, 1952, the Employees Provident Fund Scheme, 1952, the Employees Pension Scheme, 1995 and the Employees Deposit Linked Insurance Scheme, 1976.

4. After hearing both the parties and on perusal of the various records, the second respondent passed an order of payment of the outstanding dues for the period from 06/2013 to 05/2019 to a tune of Rs.28,40,712/- within a period of seven days from the receipt of the order, dated 09.01.2023. The learned Counsel for the petitioner submitted that as against the order of assessment, the petitioner has a right to prefer an appeal before the appellate authority and in view of the indiscrepancies in the calculation by which the outstanding dues has been arised, it is necessary for the petitioner to file an appeal. Though, the petitioner has a right to prefer an appeal within a period of sixty days in terms of Section 7 - I of the Employees Provident Fund Appellate Tribunal Procedure Rule, 1997, the petitioner could not prefer an appeal on time with respect to this case. Hence, the present writ petition has been filed.



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5. The learned Counsel appearing on behalf of the respondents citing the submission of the learned Counsel for the petitioner insofar as the entitlement of the petitioner to prefer an appeal within a period of 60 days and a further period of 60 days along with the petition for condoning the delay, submitted that the petitioner had approached this Court on 09.03.2023.

6. However, the petitioner has approached this Court after a lapse of six months which is beyond the period of limitation. Hence, the claim of the petitioner for condonation of delay cannot be considered by the appellate authority and 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. In view of the admission made by the petitioner that there was a delay in remittance of contributions under the Act, it is evident from the materials on record that the petitioner has approached this Court after an inordinate delay of more than six months that too without filing any appeal either within the period of 60 days limitation or even within the extended period of another 60 days and having not preferred the appeal has come before this Court seeking to direct the appellate authority to admit the appeal which is likely to be filed by the petitioner before the Appellate



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Tribunal, Chennai. If this Court accedes to relief prayed for by the petitioner, it would amount not only an Act of 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.

7. In such view of the matter, this Court is not inclined to grant relief sought for by the petitioner and the matter deserves to be dismissed for the aforesaid reasons. This writ petition is devoid of merits and the same is dismissed, accordingly. There shall be no order as to costs.

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NCC : Yes
Index : Yes
Internet : Yes
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L.VICTORIA GOWRI, J.

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