HON'BLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION No.33208 and 33209 of 2015

COMMON ORDER:

Heard Sri Koka Sathyanarayana Rao, learned counsel appearing for the petitioners and Sri G. Venkateshwarlu, learned counsel appearing for the 1st respondent.

W.P.No.33209 of 2015 is filed to declare the impugned order AP/SRO/PTC/0074361/PD Cell/14B Orders/2014-35923, dated 03-12-2014 passed under Sections 14B and 7Q of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 by respondent No.1 as arbitrary.

W.P.No.33208 of 2015 is filed to declare the impugned order AP/SRO/PTC/60567/PD Cell/14B Orders/2014-36466, dated 03-03-2015 passed under Sections 14B and 7Q of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 by respondent No.1 as arbitrary.

Aforesaid orders dated 03-12-2014 and 03-03-2015 were passed by respondent No.1 under Sections 14B and 7Q of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (for short 'the Act') demanding an amount of Rs.1,82,224/- and Rs.1,57,288/- under Sections 14-B and 7Q of the Act respectively for the period from 06/2013 to 10/2013 (Except 09/2013) and Rs.10,50,742/- and Rs.8,03,609/- under Sections 14-B and 7Q of the Act respectively for the period from 06/2010 to 14/2014 (Except 02/2014).

Petitioners have filed the present writ petitions challenging the aforesaid orders on the ground that respondent No.1 failed to consider the delay caused in remitting contribution in submission of returns in terms of the provision of the Act and Regulations made thereunder. They have also explained the reasons for the said delay in the writ petition.

According to them, there is no finding by respondent No.1 in the impugned order with regard to *mens rea* except stating that the employer is liable to pay penal charges under Sections 14B and 7Q of the Act there is no ground raised by the petitioner corporation.

In similar circumstances, in writ petition filed by the petitioner in W.P.No.1138 of 2020 this Court considering the said aspect and also the principle laid down by the Hon'ble Apex Court in ***Horticultural Experiment Station Gonikoppal, Coorg v. Regional Provident Fund Organization***[1] dismissed the said writ petition.

Order passed under Section 14(B) of the Act is an appealable order and appeal lies under Section 7(I) of the Act. However, against the order passed under Section 7Q of the Act no appeal lies. Both the impugned orders are

[1] 2022 SCC OnLine SC 223

orders. It is relevant to note that in ***Arcot Textiles Mills Ltd. V. Regional Provident Fund Commissioner & Ors.***,[2] the Hon'ble Apex court held:

> *"i. An order passed under Sections 7A and 7Q together, is a composite order and is appealable under Section 7I;*
>
> *ii. If any other composite order is passed, one facet of which is appealable, then even qua the other facet for which appeal is not provided, the appeal would be maintainable, if the order is composite;*
>
> *iii. If an independent order is however passed, no appeal would be maintainable in respect of the interest component under Section7Q."*

As stated supra, both the impugned orders are composite orders. Therefore, the petitioner herein has to prefer an appeal challenging the said Composite orders dated 03-12-2014 and 03-03-2015 passed under Sections 14(B) and 7Q of the Act. The said fact was not considered by this Court in the order dated 28-04-2022 in W.P.No.1138 of 2020

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[2] (2013) 16 SCC 1

In view of the aforesaid discussion, these Writ Petitions are dismissed. However, liberty is granted to the petitioner to prefer appeal under Section 7-I of the Act, if so advised challenging the composite orders 03-12-2014 and 03-03-2015 of respondent No.1. There shall be no order as to costs.

As a sequel, the miscellaneous petitions, if any, pending in these Writ Petitions shall stand closed.

K. LAKSHMAN, J

February 02, 2023

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HON'BLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION No.33208 and 33209 of 2015

February 02, 2023

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