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C.R.P.No.4829 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4829 of 2024 &
CMP.No.26972 of 2024

M/s. SY Consultants Statutory Services Private Limited,
New No.7, Old No.6,
Eden Date, Bishop Wallers Avenue East,
Mylapore, Chennai – 600 004. .. Petitioner

Versus

Regional Provident Fund Commissioner – II,
Chennai South,
Employees Provident Fund Organisation,
No.37, Royapettah High Road,
Chennai – 600 014. .. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order in EPFA.No.110/2024 dated 27.08.2024 passed by Central Government Industrial Tribunal cum Labour Court, Chennai.

For Petitioner : Mr.R.Krishnamurthy

For Respondent : Ms.R.Swathi for
Mr.T.R.Sundaram



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ORDER

This civil revision petition arises against the order passed by the Central Government Industrial Tribunal cum Labour Court in EPFA. No.110 of 2004 dated 27.08.2024. The civil revision petitioner is the appellant in EPFA 110/2024.

2. The case of the civil revision petitioner is that a proprietary entity was being run under the name and style of “S.Y. Consultants Statutory Services private Limited”. A show cause notice had been issued by the respondent on 13.10.2018 calling upon the civil revision petitioner to remit the EPF dues which fallen from 04-2015 to 03-2017.

3. According to the civil revision petitioner, on account of the pandemic caused by Covid-19, the petitioner was not in a position to attend the hearing and submit the relevant documents. The petitioner alleges that without considering the relevant documents, the respondent had mechanically passed an order dated 21.09.2023, calling upon the petitioner to remit a sum of Rs.11,31,829/-.



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4. Aggrieved by the said order, the petitioner preferred an appeal before the Central Government Industrial Tribunal cum Labour Court on 02.07.2024.

5. The learned Tribunal issued notice to the Regional Provident Fund Commissioner-II at Chennai and took up the appeal for hearing. It was pointed out by the Tribunal that the appeal had been filed on 02.07.2024 invoking section 7-I of the Employees Provident Fund and Miscellaneous Provisions Act, 1952. In terms of Rule 7(2) of the Employees' Provident Fund Appellate Tribunal (Procedure) Rules, 1997, an appeal ought to have been filed within 60 days from the date of the order, and as the appeal had been filed beyond the said period, the appeal is not maintainable. Consequently, it dismissed the said appeal. Aggrieved by the same, the civil revision petition at the hands of the appellant.

6. I have heard Mr.R.Krishnamoorthy for the civil revision petitioner and Ms.R.Swathi for Mr.T.R.Sundaram appearing for the respondent.



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7. Mr.R.Krishnamoorthy urges that the civil revision petitioner was not in a position to produce the records as sought for by the respondent on account of the fact that the Central Bureau of Investigation had conducted a search of his premises and seized all the records, which were available in the premises. He adds that the petitioner attempted to get the record from the Central Bureau of Investigation, but before he could obtain the same, the authority had proceeded to pass the order. He pleads that on account of pandemic, he could not present himself before the authority as he was affected with the Covid-19 virus. Therefore, he pleads that taking into consideration the peculiar circumstances of the case, the impugned order should be interfered with.

8. Ms.R.Swathi for Mr.T.R.Sundaram urges that nothing prevented the civil revision petitioner to produce the records before the authority. She adds that the party could have produced the same upon requisition from the Central Bureau of Investigation. She states that the plea of pandemic can be considered, but some condition should be imposed on the civil revision petitioner before setting aside the impugned orders.



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9. I have carefully considered the submission of both sides and gone through the records.

10. It is a settled position of law that a litigant does not gain by lodging an appeal in a belated manner. It is the plea of the petitioner/appellant that he has a meritorious case, since as his employees were drawing more than a sum of Rs.15,000/- per month and therefore, application of EPF Act itself does not arise.

11. If a narrow pedantic approach is taken in such kind of cases, then a party is denied of opportunity to agitate about the correctness of the order. It is common knowledge that pandemic ranged throughout the world and India was particularly affected. Taking note of the pandemic, the Supreme Court, in fact, suspended the period of limitation in ***In Re: Cognizance for Extension of Limitation Act, Suo Motu Writ Petition (Civil) No.3 of 2020 dated 22.03.2020***. The Supreme Court pointed out that the circumstances, in which the country had been placed, the application of period of limitation, as would be done normally, would create undue hardship to the parties.



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12. At the same time, I have to take into consideration the plea, that has been raised by the learned counsel for the respondent. A sum of Rs.11,31,829/- has been assessed to be due from the civil revision petitioner to the department. The dues range for the period from April 2015 to March 2017. About 9 years have gone by.

13. If I were to confirm the order of the learned Central Government Industrial Tribunal, then the remedy for the party would be entirely snuffed out. When “sufficient cause” has been shown and when the circumstances are beyond the control of the civil revision petitioner, a practical approach has to be taken in the matter. Therefore, I am inclined to interfere with the order passed by the Central Government Industrial Tribunal cum Labour Court, Chennai in EPFA.No.110 of 2024.

14. This civil revision petition is allowed. The order passed by the learned Tribunal dated 27.08.2024 as well as the order of the original authority dated 21.09.2023 are set aside on condition the civil revision petitioner will deposit a sum of Rs.11,31,829/- within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the



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respondent shall give an opportunity to the petitioner to contest on the merits of the case. In case, the amount is not deposited within the period granted by this Court, the civil revision petition will stand dismissed without further notice to this Court.

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no

To

The Central Government Industrial Tribunal cum Labour Court, Chennai.



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V.LAKSHMINARAYANAN, J.

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