



W.P.No.33592 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 19.11.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.33592 of 2024
and W.M.P.No. 36380 of 2024

M/s. Ceeyes Engineering Industries Private Limited,
Represented by its Managing Admin,
Mr.V.Arunagiri,
S/o.A.Velmurugan,
Plot No. 51 & 52, SIDCO Industrial Estate,
Thuvakudi, R.E.C.Post, Trichy - 15.

.. Petitioner

Vs.

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub Regional Office, PB No. 588,
Sree Complex, D Block,
No. 18, Madurai Road,
Trichy - 620 008.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the entire records pursuant to the order passed by the Central Government Industrial Tribunal cum



W.P.No.33592 of 2024

Labour Court, Chennai-6, in EPFA No.39/2024 dated 28.08.2024, quash the same and consequently direct the respondent to forbear from taking recovery proceeding based on the order of the respondent under Section 7A of the EPF Act reference No.CB/TRY/ ENF-B4/ 43441/ 7A Order/2023-24 dated 10.10.2023.

For Petitioner : Mr.S.Saravanan

For Respondent : Mr.M.Palanimuthu

ORDER

The writ petition is filed challenging the order passed by the learned Central Government Industrial Tribunal Cum Labour Court, Chennai in EPFA No.39/2024 dated 28.08.2024.

2. The order has been passed on an appeal filed by the petitioner under Section 7-I of the Employees Provident Funds and Miscellaneous Provisions Act, 1952. It is seen that an order was passed against the petitioner under Section 7(A) of the Act on 10.10.2023. Therefore, 60 days is the time for the petitioner to file an appeal. The said order was served on



W.P.No.33592 of 2024

WEB COPY

the petitioner on 14.10.2023. The 60 days time to file an appeal under Section 7-I expired on 14.12.2023. The Act prescribes that the Appellate Authority can entertain the appeal, even after the period of 60 days, but however the outer condonable limit is prescribed as another 60 days. Therefore, the delay of 60 days if any can be condoned by the Appellate Authority. However, in the instant case, the 60 days condonable limit also expired on 14.12.2023, whereas the Appeal was filed after the same on 24.02.2024, after the expiry of 60 days. Though the time lag is only short, it is now too well settled that if the statute provides for an outer condonable limit, the same is mandatory. The Appellate Tribunal nor this Court has any power to condone the delay beyond the outer limit.

3. As a matter of fact, some of the judgments on the point has been quoted by the Appellate Tribunal itself. In any event, the Hon'ble Supreme Court of India has categorically held that whenever there is an outer condonable limit, then the Tribunals or the Courts have no power to condone the delay beyond the point of time. Useful reference can be made



W.P.No.33592 of 2024

in this regard to the following judgments:

(i) ***CCE & Customs v. Hongo India (P) Limited*** reported in (2009) 5 SCC 791.

(ii) ***Oil and Natural Gas Corp. Limited. vs. Gujarat Energy Transmission Corporation Limited and others*** reported in MANU/SC/0259/2017.

4. Sometimes it may be harsh upon the litigants such as the petitioner before this Court where the excess delay is very short. But however when the mandate of law is very clear, this Court cannot entertain this writ petition which is challenging the order of the Appellate Authority.

5. The learned counsel for the petitioner would submit that the petitioner is put to grave hardship as it wants to settle the matter with the authorities. However there is an order of attachment of back account etc. Upholding the order under Section 7(A) and the order of the Appellate Authority is a different question and settling the amount due is another



W.P.No.33592 of 2024

WEB COPY

question. Therefore, it is always open to the petitioner to approach the respondent with a proposal for settlement and it is discretion of the respondent to consider and accepting the entire amount or even in installments and raising the attachment etc., which would be within the powers of the respondent. In any event those matters cannot be relevant for the purpose of considering the validity or otherwise of the order passed by the Appellant Authority which is based on the correct position of law.

6. Accordingly, with the above observations, this writ petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

19.11.2024

Neutral Citation : Yes/No

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To
The Assistant Provident Fund Commissioner,
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Page 5 of 6



WEB COPY



W.P.No.33592 of 2024

D.BHARATHA CHAKRAVARTHY, J.

ns1

W.P.No.33592 of 2024

19.11.2024