



WEB COPY

W.A.No.3629 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.No. 3629 of 2024
and
C.M.P.Nos.28456 & 28458 of 2024

M/s.Oragadam City Developers Private Limited,
No.5, Giri Road, T.Nagar, Chennai – 600 017.
Rep. by its Authorised Signatory,
C.V.Lakshman.

...Appellant

Vs.

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Ministry of Labour & Employment,
Government of India, Regional Office,
No.37, Royapettah High Road,
Chennai – 600 014.

...Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the impugned judgment dated 19.10.2024 in W.P.No.11763 of 2022.

For Appellants

: Mr.A.K.Shriram, Senior Counsel
For Mr.A.V.Arumugam



J U D G M E N T

(Judgment of the Court was delivered by ***R.SUBRAMANIAN, J.***)

The appellant challenges the order of the Writ Court dismissing its Writ Petition in W.P.No.11763 of 2022.

2. Challenge in the Writ Petition was to the order of the Authority viz., Central Government Industrial Tribunal in a waiver application made under Section 7-I of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

3. The appellant was accused of not paying the Employees Provident Fund dues in time and a demand for recovery of 3,92,34,232/- was made against the appellant. The appellant challenged the said order in the appeal and sought for waiver of the condition for pre-deposit of 75% of the amount claimed under Section 7-O of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

4. The Tribunal considered the claim of the appellant and concluded that though the appellant has not proved that it has been suffering losses and



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it is facing financial crisis, by exercising its discretion had reduced the pre-deposit from 75% to 55% of the amount claimed. It was this order that was under challenge before the writ Court.

5. The writ Court found that the order being a result of exercise of discretion by the Tribunal, there is no ground for interference with the order of the Tribunal. Hence, this appeal.

6. Mr.A.K.Shriram, learned Senior Counsel appearing for the appellant would contend that the Tribunal has not taken into account the additional affidavit filed by the appellant disclosing that the Company has been suffering losses throughout and it is really facing financial crisis.

7. Section 7-O of the Act requires the person who challenges the order making a demand under Section 7-A to deposit 75% of the amount so demanded and proviso to the said provision empowers the Tribunal to waive or reduce the amount to be deposited. The waiver or reduction is entirely a matter of discretion to be exercised by the Tribunal. The demand was made in 2019. The Tribunal has exercised its discretion and has concluded that the appellant would be permitted to prosecute the appeal upon depositing 55%



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of the claim made. No doubt, the pre-condition may at times appear to be little deterrent, but pre-condition imposed in enactments like Employees' Provident Funds and Miscellaneous Provisions Act, 1952 have been held to be valid and reduction is only a matter of discretion.

8. We therefore see no reason to interfere with the order of the writ Court. The appeal therefore fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petitions are closed.

dsa
Index : No
Neutral Citation : No
Speaking Order

(R.S.M., J.) (C.K., J.)
10.12.2024



To

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Ministry of Labour & Employment,
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