BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.14913 of 2024 &
W.M.P.(MD)No.13087 of 2024

M/s.Excel Neat and Tidy Agency,
Rep. by its Proprietor
Mr.V.Sriram
L 295, Pillayar Palayam,
R.M.Colony,
Dindigul 624 001 ... Petitioner

vs.

The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organization,
District Officer, 16, A.R.S. Road,
Bava Lodge Building, Nagar Nagar,
Dindigul - 624 003 ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records on the file of Respondent vide reference No. TN / RO /MD/ MDU/ PDC /M-14/97194/7Q/2024 dated 02.05.2024 directing the petitioner to pay the interest dues of Rs.10,29,286/- and quash the time frame and granting 24 Months installment facility to the petitioner to remit the amount.

For Petitioner	:	Mr.M.N.Ramkumar
For Respondents	:	Mr.A.John Xavier, Standing Counsel

ORDER

Heard Mr.M.N.Ramkumar, learned counsel appearing for the petitioner and Mr.A.John Xavier, learned standing counsel appearing for the respondent.

2. The petitioner has filed this writ petition challenging the levy of interest to the tune of Rs.10,29,286/- imposed on the damages already fixed by conducting enquiry under Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 [hereinafter referred to as 'the Act'],

3. Mr.M.N.Ramkumar, learned counsel appearing for the petitioner submitted that as against the order of determination of damages, the petitioner has filed a statutory appeal and the same is pending. While so, the impugned order has been issued for recovery of interest.

4. It is the contention of the petitioner that there is no statutory appeal provision for challenging the levy of interest and hence, he has filed this writ petition. In fact, the petitioner has not challenged the levy of interest technically, but his limited prayer is that he should be allowed to remit the interest in equal 24 monthly installments. It is further stated that the respondent has resorted to coercive measures to recover the interest.

5. As per Section 7-I of the Act, the aggrieved person is entitled to prefer an appeal only in pursuant to the orders passed under certain provisions. For the sake of clarity, Section 7-I of the Act is extracted hereunder.

> *"7-I. Appeals to Tribunal.—*
> *(1) Any person aggrieved by a notification issued by the Central Government, or an order passed by the Central Government or any authority, under the proviso to sub-section (3), or sub-section (4), of section 1, or section 3, or sub-section (1) of section 7A, or section 7B*
> *[except an order rejecting an application for review referred to in sub-section (5) thereof], or section 7C, or section 14B, may*

prefer an appeal to a Tribunal against such notification or order.

(2) Every appeal under sub-section (1) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed"

6. So far as the order passed under Section 7Q of the Act by levying interest, the statute itself fixed the rate of interest as 12% per annum or such higher rate as may be specified in the Scheme on any amount due from the concerned under the Act. Section 7Q of the Act is extracted hereunder.

"7Q. Interest payable by the employer.—The employer shall be liable to pay simple interest at the rate of twelve per cent. per annum or at such higher rate as may be specified in the Scheme on any amount due from him under this Act from the date on which the amount has become so due till the date of its actual payment:

Provided that higher rate of interest specified in the Scheme shall not exceed the lending rate of interest charged by any scheduled bank.]"

7. Mode of recovery has been prescribed under the Sections 8B to 8G of the Act. Nowhere, the Act prescribed recovery in installments. However, the discretion of the concerned authorities was not expressly denied in recovering any due under the Act in installments. It would have been appreciated if the petitioner had approached the appropriate authority for seeking order or permission to remit the amount in installments. It seems that may writ petitions are filed by requesting to make payments in installments, which is neither contemplated under the Act nor an issue which would fall under the writ jurisdiction.

8. In view of the same, the writ petition is **disposed of** and the petitioner is at liberty to make appropriate application and seek orders from the appropriate authority himself in this regard. No costs. Consequently, connected Miscellaneous Petition is closed.

08.07.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order
mbi

R.N.MANJULA, J.

mbi

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