BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.20943 of 2014 and
MP(MD) No.1 of 2014

M/s. Bishop Ganadhasan CSI Matriculation School,
Represented by
The Secretary,
CSI Church,
Mission Compound,
Thittuvilai,
Boothapandi – 629 852
Kanyakumari District,
Tamil Nadu. ... Petitioner

Vs

The Regional Provident Fund Commisisoner,
Employees Provident Fund Organization,
Sub Regional Office,
66, Water Tank Road,
Nagercoil - 629 001. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the order of the respondent in

No.TN/NGL/79164/7Q/306/PDC(3)/2014, dated 14.10.2014 and quash the same.

For Petitioner : Mr.Dileepan Pandian
For Respondents : Mr.J.S.Murali

O R D E R

An order passed by the Regional Provident Fund Commissioner, Employees Provident Fund Organization, Nagercoil, under Section 7Q of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 is under challenge in this writ petition.

2.The petitioner School, namely, Bishop Gnanadhasan CSI Matriculation School was started in the year 1998 with an object to provide quality education to the poor children in the rural areas. The School is administered by the Church Committee by voluntary contribution. While so, the respondent has passed an order under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act (hereinafter refers to Act) by bringing the School under the CSI Diocese Management. The respondent has also determined the contribution of Rs.5,82,646/-, for the period from June 1998 to April 2010. As against the same, the petitioner has filed a review application, under Section 7B of the Act and the same was dismissed by the respondent on 31.01.2011. According to the petitioner, the respondent has not only recovered the contribution from the various Bank accounts of the petitioner School, but also levied interest and penal damages under Section 7Q and 14B of the Act. As against the order passed under Section 14B of the Act, dated 14.10.2014, the petitioner has filed an appeal under Section 7(I) of the Act, before the Employees Provident Fund Appellate Tribunal, New Delhi.

3.The learned counsel appearing for the petitioner submits that pending the appeal, it is not proper on the part of the respondents to confirm the liability and imposing interest under Section 7Q of the Act.

4.This Court considered the submission made by the learned counsel for the petitioner and also perused the materials placed on record.

5.Bishop Ganadhasan CSI Matriculation School has filed this writ petition as against the order passed by the respondent/EPF Authority, under Section 7 Q of the Act. The petitioner Institution was covered under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 and the liability of contribution was also determined by the EPF Authority under Section 7A of Act on 30.09.2010, fixing the liability from the month of June 1998 to April 2010. As against this order passed under Section 7A of the Act, the petitioner claims that a review application was filed under Section 7B of the Act and the same was also dismissed. The petitioner has filed an appeal before the Tribunal challenging the order passed under Section 14 B of the Act. Admittedly, the order impugned in this writ petition is the order passed by the authority, levying interest under Section 7Q of the Act at 12% rate of interest per annum on the due amount of contribution, which is liable to be paid by the petitioner for the period from July 2000 to May 2010. The learned counsel on either side are not in a position to explain the stage of the appeal, which is said to have been filed by the petitioner. The provision under Section 7Q of the Act is extracted as under:-

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

6.As per the above provision, if there is any liability of EPF contribution from any establishment, and if there is any delay in payment of contribution by the authority, the authority is entitled to recover the same with interest and also with damages under Section 7Q and 14B of the Act. The order impugned in this writ petition is the order, which is passed under Section 7Q of the Act, which is a statutory power conferred on the respondent to levy interest.

7.Since Section 7Q of the Act mandates the authority to levy interest for the belated payment of EPF contribution at the rate of 12% simple interest, this Court is not inclined to interfere with the order impugned in this writ petition. At this juncture, the learned counsel for the petitioner seeks time to pay the amount in monthly installments.

8.The impugned order was passed on 14.10.2014 and it has not been enforced due to pendency of this writ petition for the past 10 years. Therefore, this Court is of the view that the petitioner has already been given sufficient time of 10 years and therefore, this Court is not inclined to grant any further time for making payment.

9.Accordingly, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

23.10.2024

NCC :Yes/No
Index :Yes
Internet :Yes
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To

The Regional Provident Fund Commisisoner,
Employees Provident Fund Organization,
Sub Regional Office,
66, Water Tank Road,
Nagercoil - 629 001.

B.PUGALENDHI, J.

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Order made in
W.P(MD)No.20943 of 2014 and
MP(MD) No.1 of 2014

23.10.2024