



WP(MD)No.9428 and 9429 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 24.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.9428 and 9429 of 2017
and
WMP(MD)Nos.7169 to 7170 of 2017**

M/s.Annamalayar Educational & Charitable Trust,
IN R/O.KIT and KIM Technical Campus,
Keeranipatti, Managiri Campus,
Karaikudi,
Sivagangai District – 630 307,
Represented by its Chairman,
V.Ayyappan

...Petitioner in both WPs

Vs

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Ministry of Labour – Government of India,
Regional Office, Lady Doak college Road,
Chokkikulam, Madurai – 625 002.

...Respondent in both WPs

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a writ of certiorari to call for the records relating to the impugned order of the respondent in No.TN/RO/MDU/91094/Cir-40/PDC/7Q/2017, dated 19.04.2017 and No.TN/RO/MDU/91094/Cir-40/PDC/LD/2017, dated 19.04.2017 and quash the same.



WP(MD)No.9428 and 9429 of 2017

For Petitioner : Mr.VR.Shanmuganathan

For Respondent : Mr.K.Murali Shankar

Standing Counsel

ORDER

These writ petitions are filed challenging the orders passed by the EPF authority under Sections 14-B and 7-Q of the Employees Provident Fund and Miscellaneous Provident Funds Act [herein after shall be referred to as 'the Act'] dated 19.04.2017.

2.The petitioner institution has failed to pay the EPF contribution for the period from October 2011 to June 2016. Therefore, the respondent EPF authority initiated proceedings under Section 14-B of the Act and after conducting enquiry has passed an order levying damages of Rs.1,41,381/- under Section 14-B of the Act and has also levied penalty of Rs.68,862/- under Section 7-Q of the Act. Challenging the same the petitioner is before this Court.

3.The learned Counsel for the petitioner submits that the respondent EPF authority has levied penalty damages without



WP(MD)No.9428 and 9429 of 2017

considering whether there is any willful default on the part of the petitioner and without considering the reply given by the petitioner on 22.03.2017. Moreover the petitioner has paid the EPF dues in the year 2014 and it is paying the EPF contribution regularly. While so some of the employees of the institution have left the job and without considering the same, the EPF authority has demanded damages from the year 2011, when the petitioner has paid the EPF contribution in the year 2014

4.The learned Counsel for the respondent EPF authority submits these writ petitions are not maintainable. The petitioner has challenged the orders passed under Sections 14-B and Section 7-Q of the Act, against which the petitioner is having remedy of appeal under Section 7-I of the Act before the Appellate Tribunal. Further the liability of the petitioner towards EPF contribution has been determined by the EPF authority on 17.07.2014 and the petitioner has subsequently remitted the same. Further for the belated payment, the EPF authority has passed an order levying interest under Section 7-Q of the Act. Therefore the EPF authority has rightly passed the orders.



WP(MD)No.9428 and 9429 of 2017

5.This Court considered the rival submissions and perused the materials placed on record.

6.The orders impugned in these writ petitions are the order passed under Section 14-B of the Act levying damages and the order passed under Section 7-Q of the Act levying interest for the belated payment of EPF contribution by the petitioner institution. These orders have been passed after determining the liability of the petitioner under the EPF Act for the period from October 2011 to June 2016. The petitioner has claimed that they have paid the dues on 20.08.2014. The petitioner has remitted the dues from the month of October 2011, only on 20.08.2014. It is seen from records that the orders have been passed only for the outstanding dues by deducting the remitted amount. Therefore, the petitioner's contention that despite the remittance, the EPF authority has levied interest cannot be accepted, since the EPF authority is entitled to levy the interest for the belated payment. Moreover the petitioner is having an appeal remedy under Section 7-I of the Act as against the order passed under Section 14-B of the Act. Therefore, there is no reason to interfere with the orders of the EPF authority. Accordingly these writ



WP(MD)No.9428 and 9429 of 2017

petitions are dismissed. No costs. Consequently connected miscellaneous petitions are closed.

24.10.2024

Internet : Yes / No

Index : Yes / No

DSK

To

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Ministry of Labour – Government of India,
Regional Office, Lady Doak college Road,
Chokkikulam, Madurai – 625 002.



WEB COPY



WP(MD)No.9428 and 9429 of 2017

B.PUGALENDHI.J.,

DSK

WP(MD)No.9428 and 9429 of 2017

24.10.2024