



W.P(MD)No.8537 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.8537 of 2016

and

W.M.P.(MD)No.6858 of 2016

Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
P.B.No.588, Sree Complex,
'D' Block,
No.18, Madurai Road, Tiruchirapalli.

... Petitioner

Vs

1. The Presiding Officer,
Employees Provident Fund Appellate Tribunal,
Scope Minor, Core II,
4th Floor, Lakshmi Nagar District Centre,
Lakshmi Nagar, New Delhi.

2. M/s. Sri Balaji Wel Tech,
Near ABT Show Room,
Thiruvanaikoil,
Trichy,
Rep. Through its Managing
Director/ Proprietor.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified mandamus to call for the records relating to the order passed by the 1st respondent in A.T.A.No.444(13) 2014 dated 13.08.2014 and quash the same as unconstitutional and consequently direct the 2nd respondent to pay the amount in Ref No.TN/TRY/0081155/DAMAGES dated 02.06.2014 within a time frame as fixed by this Hon'ble Court.

For Petitioner : Mr.I.Robert Chandrakumar

For R2 : No Appearance

ORDER

The EPF authority has filed this petition as against the order passed by the appellate tribunal in ATA No.444 (13) 2014, dated 13.08.2014. This appeal was filed by the respondent Management as against the order of damages levied against the Management under Section 14B of the EPF and MP Act, dated 02.06.2014.

2.The respondent Management is liable to pay the EPF contribution but failed to pay the contribution for the period December 2011 to June 2013. Therefore, the EPF authority has issued a show cause



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notice on 31.12.2013 and conducted an enquiry and passed an order levying damages for the belated payment as Rs.5,19,109/- by order, dated 02.06.2014. The authority has also levied interest under Section 7-Q of the Employees' Provident Funds and Miscellaneous Provisions Act to the tune of Rs.2,82,343/-. The same were challenged by the second respondent before the first respondent Tribunal at New Delhi in ATA No. 444 (13) 2014. The tribunal by its order dated 13.08.2014 set aside the orders passed by the EPF authority under Section 14 B as well as under Section 7-Q of the Act on the ground that there is no wilful default committed by the Management in remitting the provident fund dues.

3.Though the notice was served and name of the second respondent is printed in the cause list, there is no representation for the second respondent. Therefore, this Court proceeded with this writ petition based on the grounds of the petition, the submissions of the learned Counsel for the petitioner and the impugned orders passed by the Tribunal.

4.The Tribunal while entertaining the appeal preferred under Section 7-I of the Act has passed order that there was no wilful default on



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the part of the second respondent for the delay. The delay in payment of contribution has not been disputed by the second respondent. However, he has not assigned any reason for not making the payment in time to the EPF authorities. Without any basis and without any discussions on the reasonings offered by the second respondent, the appellate tribunal has simply set aside the order that there is no wilful default committed by the appellant. Moreover, the appeal provision is available under Section 7-I of the Act as against the damages levied under Section 14B of the Act, however, the second respondent has filed the above appeal as against the order passed under Section 14B of the Act and also as against the orders passed under Section 7-Q of the Act. The appellate Tribunal has entertained the appeal filed as against the orders passed under Section 7-Q of the Act and has also granted some concession in payment of the interest amount in installments. The appellate Tribunal without any authority has interfered with the orders passed under Section 7Q of the Act and has set aside the order passed under Section 14B of the Act without any discussion for arriving at such a conclusion.

5. Therefore, this Court is inclined to allow this writ petition.

Accordingly, the impugned order is set aside and this writ petition stands



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allowed. No costs. Consequently, the connected miscellaneous petition is closed.

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

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