



W.P(MD)No.8544 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.8544 of 2016

and

W.M.P.(MD)No.6865 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.Trichy Eng. Contractors,
I PPN Complex,
Erasanyakanpatti,
Viralimalai, Pudukottai,
Rep. Through its Authorized Officer.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of



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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. 450(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. C- 12/TN/76294/PDC/SRO-TRY/14B/2014 dated 13.06.2014.

For Petitioner : Mr.Pinaygash.I

For R2 : No Appearance

ORDER

The EPF authority has filed this petition as against the order passed by the appellate tribunal in ATA No.450(13)2014 dated 13.08.2014. This appeal was filed by the second respondent Management as against the order of damages levied against the Management under Section 14B of the EPF and MP Act, dated 03.06.2014.

2.The second respondent Management is liable to pay the EPF contribution but failed to pay the contribution for the period October



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2008 to January 2013. Therefore, the EPF authority has issued a show cause notice on 17.03.2014 and conducted an enquiry and passed an order levying damages for the belated payment as Rs.21,40,156/- by order, dated 03.06.2014. The authority has also levied interest under Section 7-Q of the Employees' Provident Funds and Miscellaneous Provisions Act to the tune of Rs.11,23,732/-. The same were challenged by the second respondent before the first respondent Tribunal at New Delhi in ATA No. 450 (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. 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, the second respondent 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.



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Accordingly, the impugned order is set aside and this writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

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

LR



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