IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.06.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.1628 of 2023
and WMP.Nos.1742 & 1743 of 2023

The Principal Secretary / Commissioner
Greater Chennai Corporation
Ripon Building
Chennai - 600 003. ... Petitioner

Vs

1.The Regional P.F. Commissioner-I
Regional Office, Chennai North
Employees Provident Fund Organisation
Ministry of Labour and Employment
Government of India
Bhavishya Nidhi Bhawan
No.37, Royapettah High Road
Chennai - 600 014.

2.The State Bank of India
Park Town Branch
Chennai. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the impugned order of the first respondent vide order

No.CHN/TN/MAS0083639/CC-1/Div12/Enf/2022 dated 11.08.2022 and to quash the same.

For Petitioner : Mr.A.S.Ragul Adithiya
for M/s.P.T.Ramadevi

For Respondents : Mr.Vishnu, Standing Counsel for R1
Mr.B.Siva Kollapan for R2

ORDER

The Greater Chennai Corporation is the petitioner before this Court challenging the order passed by the first respondent dated 11.08.2022.

2. The facts are briefly set out herein below:-

a) The Government of Tamil Nadu with a vision to provide health and hygienic food to the economically weaker section of the society at cheaper rates, and also with a view to augmenting the income of Self Help Groups, had set up Amma Unavagam in the year 2013. These eateries were set up in 200 divisions in the city of Chennai, and each eatery had one additional Amma Unavagam, and apart from that, seven major hospitals had one outlet of Amma Unavagam each. In all, there were 407 such Unavagams within the jurisdiction of the petitioner-

Corporation. As on date, seven of them have been closed down and 400 of them are still functioning.

b) These Unavagams function with the help of Self Help Groups (in short 'SHG') who are voluntarily organised groups consisting of 10 to 15 members. The members of these groups are neither recruited nor appointed by the petitioner-Corporation and there exists no employee-employer relationship between the SHGs and the petitioner-Corporation. The SHGs are independent entities. Apart from working in the Amma Unnavagams, the members of SHG also engage in other works.

c) The petitioner-Corporation provides a sum of Rs.300/- per day as financial assistance to the members of the SHG. At the end of the month, on the basis of the attendance submitted by the SHG leader, the financial assistance of the SHG members were deposited in the bank account of the respective SHGs and the amounts are distributed to the members of SHGs by their leaders. The petitioner-Corporation does not credit the money to the bank accounts of the individual members of SHGs.

d) During the routine review meeting that was held on 04.03.2017, which was conducted by the Commissioner of Greater Chennai Corporation with the Zonal Officers, the Regional Commissioner, Employees Provident Fund Organisation, the first respondent herein who had participated in the said meeting, had discussed about the applicability of EPF to the members of the SHGs serving in Amma Unavagams.

e) Thereafter, as per the directions of the first respondent, a federation was constituted with the SHGs of each zone because the number of SHG women in each group is less than 20 members.

f) On 06.08.2019 and 07.08.2019, intimation notices were issued by the first respondent to the Zonal Officers of Unavagam Natathum SHG Federation Zones 4, 5 and 6, to provide them the entire details of the SHG members in their respective units within a stipulated time. Thereafter, a summon dated 12.04.2021 under Section 7 of the Employees Provident Fund and Miscellaneous Provisions Act 1952 was issued by the first respondent to the petitioner-Corporation requiring them to appear in person on 28.04.2021. This was followed by the letter of the first respondent dated 28.06.2021 informing the petitioner-Corporation that an inquiry will be conducted on 13.07.2021 through virtual hearing.

g) The District Revenue Officer, Amma Unavagam had attended the said inquiry on behalf of the petitioner-Corporation through virtual hearing. Subsequent to the said meeting, the first respondent had issued a letter dated 20.07.2021 to the Zonal Officers of Zone 1, 2 4 &5 requiring them to provide the monthly salary/wage details of the employees working in Amma Unavagams from April 2019 to till date, as also the details of the contract employees who are not covered under the EPF Act. A copy of the said letter was also communicated to the petitioner-Corporation.

h) On 14.10.2021, the Greater Chennai Corporation had sought for a clarification from Government of Tamil Nadu as to whether SHG members should be included under EPF Act and also to meet out the additional burden of expenditure for the deduction of EPF to the SHG members working in Amma Unavagams or exemptions to deduct EPF from the salary of the SHG members working in Amma Unavagams.

i) Thereafter, by order dated 11.08.2022, the first respondent directed the petitioner-Corporation to remit a sum of Rs.7,07,01,356/- as EPF dues to the SHG members workings in Amma Unavagams for the period April 2019 to June 2021 for the Zones 1,2,4 & 5 within 15 days. The said order is further provided with an attachment order that has been issued by the first respondent on 25.11.2022 to the second respondent for the said sum, and the second respondent had marked lien for the said amount in the accounts of petitioner-Corporation.

j) In the meantime, the Government of Tamil Nadu with regard to the clarification sought by the petitioner-Corporation as to the remittance of EPF dues to the SHG members working in Amma Unavagams, had sent a letter dated 08.12.2022 intimating that as per Gazette Notification of Labour and Employment Department, dated 08.01.2011, in each unit of Amma Unavagams where there are less than 20 workers are employed, the same shall not be provided with Employees Provident Fund.

k) Challenging the order of the first respondent dated 11.08.2022, the petitioner Corporation had filed a review application in Form 9 dated 13.12.2022 under Section 7B of the Employees Provident Fund & Miscellaneous Provisions Act, 1952. This application was rejected by an order dated 15.12.2022.

Hence, the present writ petition.

3. Even before the arguments had commenced, the Standing Counsel for EPFO had taken out a preliminary argument that the writ petition would not lie, in the light of the fact that challenging the Section 7A enquiry of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, an appeal to the Employees Provident Fund Appellate Tribunal had to be filed within a period of 60 days and the Appellate Authority has the power to condone the delay of a further period of 60 days, provided sufficient cause is shown.

4. The learned counsel for the petitioner would submit that against the

impugned order dated 11.08.2022, the petitioner-Corporation had filed the review application on 13.12.2022 and the said application came to be rejected on 15.12.2022. Therefore, the same is well within time.

5. Heard the learned counsel appearing for the petitioner-Corporation as well the learned counsel appearing for the respondents.

6. Admittedly as per the Employment Provident Fund Appellate Tribunal Rules, an appeal against the order passed under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, has to be filed within a period of 60 days. However, in case sufficient cause is shown, an outer condonable time limit of 60 days is extended by the Tribunal. Therefore, the appeal has to be preferred within 120 days [60 days + 60 days]. If the time taken for filing the review is to be considered, even then the petitioner's time for filing the appeal has exceeded the period of 120 days as the review itself has been filed 123 days after the order.

7. Further it has to be examined whether under Act 226, this Court could condone the delay. This issue had been considered by a learned

Single Judge of this Court in W.P.3608 of 2025, and in his order dated 31.01.2025, the learned Judge by applying the judgment of the Hon'ble Supreme Court in ***CCT Vs. Glaxo Smith Kline Consumer Health Care Ltd.,*** reported in ***(2020) 19 SCC 681***, held that this Court under Article 226 of the Consititution, cannot extend the period of limitation beyond the statutory period prescribed in the Act. This order was also confirmed by a Division Bench of this Court in W.A.No.677 of 2025.

8. Therefore, in the light of the above pronouncements, the present writ petition is dismissed as the same is filed beyond the period of limitation. No costs. Consequently, connected miscellaneous petitions are closed.

24.06.2025

Index : Yes / No
Neutral Citation : Yes / No
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To:

The Regional P.F. Commissioner-I
Regional Office, Chennai North
Employees Provident Fund Organisation
Ministry of Labour and Employment
Government of India
Bhavishya Nidhi Bhawan
No.37, Royapettah High Road
Chennai - 600 014.

P.T. ASHA, J,

ds

W.P.No.1628 of 2023

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