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W.P.No. 2321 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No. 2321 of 2025

and

W.M.P.No.2641 of 2025

M/s. AP Constructions India Private Limited,
'W' Block, W-90, Door No. 9,
First Floor, 2nd Street,
Anna Nagar, Chennai - 600 040.
Rep. by its Managing Director
P.S.Shivakumar

... Petitioner

Vs

Assistant Provident Fund Commissioner,
Employees' Provident Fund Organization,
Regional Office, Ambattur,
R-40A 1, T.N.H.B. Shopping-cum-office-Complex,
Mogappair Road, Mogappair East,
Chennai - 600 037.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, to call for the records and quash the order bearing No. TN/RO/AMB/CC- II/67835/A-3/2023 dated 21.09.2023 passed by the respondent under Section 7A of the PF Act pending disposal of the writ petition.



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For Petitioner : Mr.C.Manohar Gupta

For Respondent : Mr.K.Venkatesan

ORDER

The writ petition is filed challenging the order dated 21.09.2023, wherein the amount of contribution due was determined by the Authority in exercise of the power under Section 7A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952.

2. The learned counsel appearing on behalf of the petitioner would submit that in this case, the petitioner can demonstrate that they are not at all liable to pay such a huge amount of Rs.56,11,071/-. There were no particulars of such number of employees working in the petitioner's concern. Since the limitation period for filing the appeal has expired, the petitioner is approaching this Court. The Court can consider rendering substantial justice when the petitioner has demonstrated that it is entitled to relief.

3. *Mr.K.Venkatesan*, the learned counsel takes notice on behalf of the respondent organization and opposes the prayer.



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4. It is well-settled by the judgement of the Honourable Supreme Court of India in *CCT v. Glaxo Smith Kline Consumer Health Care Ltd.*,¹, that when orders are passed under a statutory regime and subject to limitation, this Court under Article 226 can neither extend the period of limitation nor entertain the writ petition, when the management has failed to avail the statutory remedies within the prescribed time. In that view of the matter, this Court is unable to accede to the request made by the learned counsel appearing on behalf of the petitioner.

5. However, considering the difficulties expressed by the petitioner, this Court is of the view that sufficient time may be granted to the petitioner for the payment of the amount due, as claimed in the impugned order. The petitioner will be entitled to pay the amount in 15 equal monthly instalments, starting from the month of February 2025.

6. At this stage, the learned counsel appearing on behalf of the petitioner would submit that the petitioner will also has a remedy of review. Even though 45 days is prescribed for review, there is no outer limit for

¹ (2020) 19 SCC 681



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condonation of delay and therefore, the petitioner will take a chance in filing the review. This Court does not express any opinion regarding any other available remedy.

7. The writ petition is disposed of with the observation that the petitioner has the liberty to approach the respondent by way of review if it is so advised and permissible in law and with the direction that the petitioner will be entitled to pay the amount due under the impugned order bearing reference No. TN/RO/AMB/CC-II/67835/A-3/2023 dated 21.09.2023 in 15 equal monthly instalments, starting from the month of February 2025. It is further made clear that the benefits granted by this order will not accrue to the petitioner, if any instalment is defaulted and the respondent organization will be entitled to proceed further in the manner known to law. Consequently, connected miscellaneous petition is closed. No costs.

27.01.2025

Neutral Citation: Yes/No
nsl



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D.BHARATHA CHAKRAVARTHY, J.

nsI

To
Assistant Provident Fund Commissioner,
Employees' Provident Fund Organization,
Regional Office, Ambattur,
R-40A 1, T.N.H.B. Shopping-cum-office-Complex,
Mogappair Road, Mogappair East,
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