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W.P.No.10941 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.10941 of 2025
and W.M.P.Nos.12349 and 25779 of 2025

M/s.JaraInfratech Ltd.,
Rep. by its Director J.Jayachandiran,
First Floor, No.5A, Kamakoti Nagar,
Narayanapuram,
Pallikaranai, Chennai – 600 100.

.. Petitioner

Versus

1. The Assistant Provident Fund
Commissioner (North),
No.37, Royapettah High Road,
Opposite to Swagat Hotel,
Chennai (Tamil Nadu) – 600 014.
2. The Enforcement Officer,
Division 88, Employment Provident
Fund Office, Chennai (North),
Royapettah, Chennai – 14.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorari to call for the records of the 1st respondent, dated 01.01.2024 in CHN-2/Div.21/TN/1395641/Enf/2024 passed under Section 7A and the order of the 1st respondent, dated 04.12.2024 in TN/CHN-NORTH/Div-88/1395641-7B/2024-25 passed under Section 7B of the Employees Provident Funds and Miscellaneous Provisions Act, 1952.



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For Petitioner : Mr.Suhrith Parthasarathy,
for Mr.B.Prashanth Nadaraj

For Respondent : Mr.R.Vishnu

ORDER

This Writ Petition is filed challenging the impugned order, dated 01.01.2024 passed under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act') and the order, dated 04.12.2024 passed under Section 7B of the Act refusing to review the order.

2. *Mr.Suhrith Parthasarathy*, learned Counsel for the petitioner, when an enquiry was conducted, though the notices seem to have been received, the petitioner did not personally present to take care of the matter. In any event, before passing of the order, after issue of the notice, the petitioner had sent a reply on 21.12.2023 which is not taken into account by the authority while passing the original order under Section 7A of the Act. Therefore, that order has to be set aside on the ground of non-consideration of the reply filed by the petitioner which would be violative of the principles of natural justice.



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3. As far as the review is concerned, the learned Counsel would submit that the review was dismissed both on the ground of limitation and also on the ground that even though appropriate opportunity is given, no records have been filed to substantiate. The petitioner has already filed records to substantiate his claim and the authority erred in dealing with the matter both on merits as well as on the ground of limitation. As far as the order under the review is concerned, there is no other alternative remedy. Therefore, this Writ Petition is filed. According to the learned Counsel for the petitioner, the petitioner is willing to deposit any reasonable sum and one opportunity can be given.

4. Per *contra*, Mr.R.Vishnu, learned Counsel for the respondent organisation would submit that this is a case where the petitioner has come up with the false affidavit as if the order was never served on him. Upon insistence of the Court, now, the records are produced from which it can be seen that from the summons for appearance in the enquiry, till the date of order passed under Section 7A of the said Act, on every occasion, due notice has been served on the petitioner.

5. When these matters are subject to statutory regime by providing an



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appeal and also an outer limit of the condonable limit is also mentioned, the order under Section 7A of the Act cannot now be challenged indirectly by way of a Writ Petition under Article 226 of the Constitution of India. Even the order of review cannot be found fault with as the authority did not have any power to condone the delay. When the Review Petition has been filed after the expiry of the period of 45 days, the authority was right in dismissing on the ground of limitation. The learned Counsel would also rely upon the relevant judgments of the Hon'ble Supreme Court of India which were followed by this Court in the case of *M/s.District Programme Co-ordinator-cum-Chief Educational Officer Vs. The Assistant Provident Fund Commissioner and Ors.*¹ which was also confirmed by the Division Bench of this Court in W.A.No.677 of 2025.

6. I have considered the rival submissions made on either side and perused the material records of the case.

7. Both the order imposing the liability under Section 7A of the Act and the review order passed under Section 7B of the Act are appealable to the Tribunal under Section 7(I) of the Act. The appeal has to be filed within a period of 60 days and another outer limit of 60 days condonable limit is

¹ 2025:MHC:328



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also prescribed. The law in this regard that whenever an outer limit of condonation is prescribed, the Courts cannot enlarge the limitation and when these matters are subject to statutory regime and appeal, the Writ Petition under Article 226 of the Constitution of India cannot be belatedly entertained, are all settled and useful reference in this regard can be made to the judgment (cited *supra*) and also the following judgments:-

(i) ***CCT Vs. Glaxo Smith Kline Consumer Health Care Limited***²;

(ii) ***Thirumalai Chemicals Limited Vs. Union of India***³.

Therefore, I am unable to accept the contentions of the learned Counsel for the petitioner.

8. However, as far as the order passed under Section 7B of the Act is concerned, it can be seen that the order is dated 04.12.2024. The 60 days time for filing the appeal expires on 03.02.2025 and the condonable limit of 60 days expires on 03.04.2025. However, before the expiry of the last day of the condonable limit, this Writ Petition is filed before this Court on 12.03.2025. Therefore, if the petitioner chooses to file an appeal as against the order passed in the Review Petition, dated 04.12.2024, while calculating the condonable limitation period of 60 days, the period from 12.03.2025 till

² (2020) 19 SCC 681

³ (2011) 6 SCC 739



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the date of receipt of a copy of this order, shall stand excluded.

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9. Accordingly, with the aforementioned liberty kept open, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

18.12.2025

Neutral Citation : no
grs

To

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