



W.P.No.16959 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2025

CORAM

THE HONOURABLE MR. JUSTICE P. DHANABAL

W.P No.16959 of 2022

and

W.M.P. No.16244 of 2022

The Assistant Provident Fund Commissioner, EPF
Organisation, Regional Office, Bavishyanidhi Bhavan,
P.B. No.3875, Dr. Balasundaram Road,
Coimbatore - 641 108.

...Petitioner

Vs.

M/s. Renaissance, RTW (Asia) Pvt. Ltd.,
No.1, Thennampalayam,
Tirupur- 641 604.

...Respondent

Prayer: The Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for the records of the Hon'ble Central Government Industrial Tribunal cum Labour Court, Chennai in EPFA No.521 of 2018 (ATA 109(13) 2016) dated 31.03.2022 and quash the same and consequently pass such orders accordingly.

For Petitioner : Mr.R. Vishnu
For Respondent : Mr.R. Jayaprakash



W.P.No.16959 of 2022

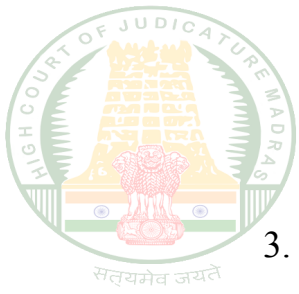
ORDER

WEB COPY

The Writ petition has been filed with the prayer calling for the records of the Central Government Industrial Tribunal cum Labour Court, Chennai in EPFA No.521 of 2018 (ATA 109(13) 2016) dated 31.03.2022 and quash the same and consequently pass such other orders accordingly.

2. The brief facts of the case are as follows:

The respondent herein being a Government Recognized Trading House, has filed an appeal in EPFA No.521 of 2018 before the Appellate Authority i.e., the Central Government Industrial Tribunal-cum-Labour Court, Chennai, being aggrieved by the impugned order dated 11.01.2016 made in TN/RO/CBE/PDC/CC30/34439/14B Proceeding/2016 passed by the Assistant Provident Fund Commissioner under Section 14B of the Employees Provident Fund Act, wherein the Assistant Provident Fund Commissioner passed orders for non-payment of the statutory contributions within the prescribed time and thereby awarded damages to the tune of Rs.10,25,010/-. The Labour Court by its order dated 31.03.2022 partly allowed directing the respondent to deposit 45% of the dues of Rs.10,25,010/- under 14B, before the petitioner herein. Aggrieved by the said order, the Department has filed this petition.



W.P.No.16959 of 2022

3. The learned counsel for the petitioner would submit that the respondent is covered under the provision of EPF and MP Act, and is a chronic defaulter and had committed default in payment of EPF dues deducted from the salary of the employees from the period 01/2014 to 07/2015 and for a further period of 11/2016 to 03/2018. For the above said default made by the respondent, the petitioner issued summon to the respondent under Section 14B of the EPF & MP Act dated 24.08.2015. In the 14B proceedings, the representative of the respondent appeared and stated that due to financial crises, the provident fund dues were remitted belatedly and admitted the default. Hence, the petitioner department has passed an order dated 11.01.2016 by levying damages under Section 14B of EPF and MP Act to the tune of Rs.10,25,010/- in accordance to the guidelines under 32A of the EPF Scheme. While being so, on the appeal, the Appellate Authority without considering the aforesaid aspects, has reduced the damages to merely 45% of the total assessed damages of Rs.10,25,010/- without attributing any valid reasons.

4. The learned counsel for the petitioner would further submit that as the respondent has made delayed contribution for a period of more than one year and subsequently also for a period of more than one year, the Appellate



W.P.No.16959 of 2022

Authority ought not to have reduced the damages to a mere 45% without

recording any reasons, by exercising his power under Section 14-B of the Act

which is non application of mind in proper perspective. For the reasons of

financial crises, the respondent cannot escape from its statutory obligation,

hence, the petitioner has assessed the damages in consonance to the provision

laid under Section 14B of the Act read with Para 32A of the EPF Scheme as a

deterrent to erring the respondent company. Therefore, the order passed by the

Appellate Authority is liable to be set aside. In support of his arguments, he

relied upon the Judgments in the case “*Hindustan Times Limited Vs. Union of*

India (UOI) and Ors. Reported in MANU/SC/0016/198 and Guru Nanak

College Vs. Employees Provident Fund Appellate Tribunal and Ors. Reported

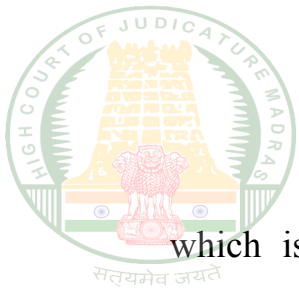
in MANU/TN/4968/2024.

5. The learned counsel for the respondent would submit that due to unexpected drop in business, the petitioner sustained severe financial crises.

Hence, the respondent could not make statutory contribution within the prescribed time limit resulting the delayed remittance for the period 01/2014

to 07/2015 which is not wanton and deliberate. However, the statutory

liabilities such as EPF dues, ESI dues with full interest were settled belatedly



W.P.No.16959 of 2022

which is neither willful nor wanton. The petitioner issued notice dated

24.08.2015 claiming damages and interest towards belated remittance for the

period 01/2014 to 07/2015. Despite the respondent has explained the financial

crises due to the unexpected drop in the business, the petitioner without

considering the mitigating circumstances and the loss suffered by the

respondent, has levied the damage mechanically at the upper limit under Para

32A of the EPF Scheme, to the extent of Rs.10,25,010/-. Hence, the

respondent preferred an appeal in ATA No.109(13) of 2016 and the same was

transferred to the Central Government Industrial Tribunal-Cum Labour Court,

Chennai and renumbered as EPFA 521 of 2018. The Tribunal after

considering reliance on the Judgment in *Asstt. P.F Commissioner Vs. Ashram*

Madhyamik, reported in 2007 LLR 1249, Employees State Insurance

Corporation Vs. HMT Ltd reported in 2008-1-LLJ-814(SC), M/s. Prestolite of

Regional Provident Fund, Commissioner Vs. Harrisons Malayalam Ltd

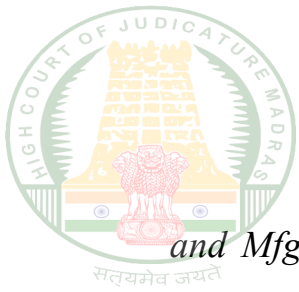
reported in 2013 LLR 1083, Terrace Estates, Unit of United Plantation Ltd

Vs. APFC, Coimbatore reported in 2010 LAB IC 252, M/s.Prestolite of India

Ltd. Vs. Regional Director & others reported in AIR 1994 SC 521,

M/s.K.Streelite Electric Corporation Vs.RPFC, reported in 2001 4 SC 449

errace Estate case, Harrisons Malayalam case and Gandhidham Spinning



W.P.No.16959 of 2022

and *Mfg. Co. Ltd case*, held that the Adjudicating Authority, though cannot

waive the damage in toto in view of Para 32B of the scheme, could have assessed the damage looking into facts and circumstances explained by the respondent as prescribed under Para 32A of the EPF Scheme and in this context, levying damage in consonance to Para 32-A of the Scheme, is not proper and incorrect and hence the the Appellate Authority waived the damage by reducing to 45% of the dues determined by the petitioner. Therefore, the Writ petition is liable to be dismissed.

6. Heard both sides and perused the entire materials available on record.

7. In this case, there is no dispute that the respondent company is covered under the provisions of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 and the contributions were paid belatedly. According to the petitioner, since there was a delay in payment of contribution amount, they initiated proceedings under Section 7Q and 14B of the Act for interest and damages respectively. The respondent also appeared before the Authority and thereafter only, the Assistant Provident Fund Commissioner

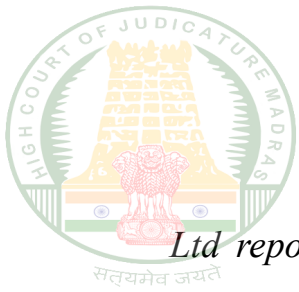


W.P.No.16959 of 2022

passed the order. The petitioner has also not denied his appearance before the

Assistant Provident Fund Commissioner. In the 14B proceedings, it is stated that as the respondent company sustained severe financial crises in the business, the respondent could not make payment of contribution in the prescribed period and made the same belatedly. However, according to the respondent, despite they have stated the bonafide reasons, the petitioner has not considered the same.

8. On perusal of records, it is seen that notice was issued on 24.08.2015 and the respondent also appeared before the petitioner seeking for time for payment due to financial crises sustained by the respondent and remitted the contributions belatedly. However, the petitioner has relied upon the Judgments in *Hindustan Times Limited vs. Union of India (UOI) and Ors reported in MANU/SC/0016/1998* and *Guru Nanak College Vs. Employees Provident Fund Appellate Tribunal and Ors. Reported in MANU/TN/4968/2024* wherein it is clarified that for deciding damages under Section 14B, *mensrea* has no relevance. In the reliance placed by the respondent, in the case “ *Asstt. P.F Commissioner Vs. Ashram Madhyamik, reported in 2007 LLR 1249, Employees State Insurance Corporation Vs. HMT*



W.P.No.16959 of 2022

WEB COPY

Ltd reported in 2008-1-LLJ-814(SC), M/s. Prestolite of Regional Provident Fund, Commissioner Vs. Harrisons Malayalam Ltd reported in 2013 LLR 1083, Terrace Estates, Unit of United Plantation Ltd Vs. APFC, Coimbatore reported in 2010 LAB IC 252, M/s.Prestolite of India Ltd. Vs. Regional Director & others reported in AIR 1994 SC 521, M/s.K.Streelite Electric Corporation Vs.RPFC, reported in 2001 4 SC 449 Terrace Estate case, Harrisons Malayalam case and Gandhidham Spinning and Mfg. Co. Ltd case, it is seen that the Competent Authority could have assessed the damage looking into the facts and circumstances explained by the respondent.

9. Having considered the facts and circumstances of the case and observations made in the various Judgments placed by the respondent, when the establishment is being put to face severe financial crises or other inevitable circumstances which compels the employer to divert the funds only to save the industry and the employees, there cannot be a levy of damages and the Authority under the EPF Act has to consider the mitigating circumstances including the financial difficulties projected by the employer and pass a reasoned order.



W.P.No.16959 of 2022

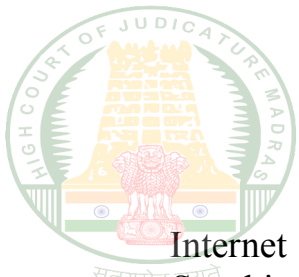
WEB COPY 10. In the case on hand also, the respondent company faced financial crises and the same has not been denied by the petitioner. Therefore, as per the observations made in the Judgements placed by the respondent, the Authority has to exercise its discretionary power and may impose damages according to the company's financial situation and awarding damages is not mandatory. Therefore, after considering the decisions in the aforesaid Judgments and mitigating circumstances of the respondent, the Appellate Tribunal reduced the damages to 45%. Therefore, the Labour court, after elaborate discussions, passed a reasoned order and correctly reduced the damage to 45%. Therefore, the order passed by the Labour Court is in order and there is no any perversity or illegality found and therefore, it does not warrant interference.

11. Therefore, in view of the above said discussions, this Court is of the opinion that this petition has no merits and deserves to be dismissed.

12. Accordingly, this Writ petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

26.08.2025

Index : Yes/No



W.P.No.16959 of 2022

Internet : Yes/No

Speaking Order/Non-Speaking Order

Lbm / mjs

WEB COPY

P. DHANABAL. J.,

Lbm / mjs

To:

The Central Government Industrial Tribunal cum Labour Court,
Chennai

**W.P No.16959 of 2022
and
W.M.P. No.16244 of 2022**

26.08.2025