IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.17888 of 2023
and W.M.P. No.17008 of 2023

The Assistant Provident Fund Commissioner,
Sub-Regional Office,
Employees Provident Fund Organization,
S.J. Plaza, Swarnapuri, Salem - 636 004. … Petitioner

Vs.

M/s. Mahatma Gandhi Matriculation School … Respondent

PRAYER: The Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for records relating to the proceedings of the Appellate Tribunal dated 16.10.2014 in A.T.A. No.786(13) 2014 and to quash the order passed therein.

For petitioner : Mr. R. Meenakshi

For Respondent : Mr. P. Thangaraj

ORDER

This Writ petition has been filed as against the order passed by the Appellate Authority under the Employees Provident Fund and Miscellaneous Provisions Act dated 16.10.2014 in A.T.A. No.786(13) of 2014, wherein the respondent herein has preferred an appeal as against the order passed by the Assistant Provident Fund Commissioner, Salem dated 20.08.2014 by quantifying the damages under Section 14-B of the Act and Para 32-A of the Scheme to the tune of Rs.6,09,091/-. The Appellate Authority allowed the appeal through an order dated 16.10.2014. Aggrieved by the said order, the Assistant Provident Fund Commissioner, Salem has preferred this Writ petition.

2. The learned counsel appearing for the petitioner would submit that the respondent establishment is covered under the Employees Provident Fund and Miscellaneous Provisions Act with effect from 22.09.1997 and also allotted a Code No.TN/47786. The respondent is a chronic defaulter in payment of Provident Fund contributions and other dues from 06/2004 to 06/2010. The belated remittance of EPF dues by the respondent attracted the provision of Section 14B of the EPF & MP Act. Thereby, the Authorities quantified the damages to the tune of Rs.6,09,091/- and a Show Cause Notice was issued on 06.06.2014 and personal hearing was also afforded on 07.07.2014 and thereafter, on behalf of the respondent, the Principal of the establishment attended the personal hearing and thereafter only, the Authority passed the order by quantifying the amount of Rs.6,09,091/- for the period from 06/2004 to 06/2010. Thereafter, the respondent preferred an appeal as against the order before the Appellate Authority and the Appellate Authority erroneously allowed the appeal by holding that Section 14-B of the Act uses

the words 'may recover' and also limited the jurisdiction of the Authority to levy penalty, not exceeding the amount of arrears. Para 32-A of the Scheme provides a sliding scale for the imposition of damages. Therefore, the determination of damages is not an inflexible application of a rigid formula and the words 'may recover' shows that the Authority is required to apply its mind to the facts and circumstances of the case and also referred the judgment of Hon'ble Supreme Court in ***M/s. Hindustan Steel Ltd., vs. The State of Orissa reported in AIR 1970 SC 253*** and set aside the order by referring the judgment of Hon'ble Supreme Court in ***HMT Limited case.*** The Appellate Tribunal failed to consider that as per the case law of ***Horticulture Experiment Station Gonikoppal, Coorg vs. The Regional Provident Fund Organization,*** *mensrea* has no relevance to levy the damages under Section 14-B of the Act. Therefore, the order passed by the Authority by setting aside the order of the Authority in quantifying the damages is against law and the same is liable to be quashed.

2.1. The learned counsel appearing for the petitioner has relied upon the following judgments, in support of her contention:

(1) ***Organo Chemical Industries and another vs. Union of India and others (SCC) reported in 1979 AIR 1803.***

(2) The Chairman SEBI vs. Shriram Mutual Fund and Another (SCC) in Appeal (Civil) No.9523-9524/2003.

(3) Sakthi Aishwarya Spinning Mills vs. EPF (High Court of Madras) in W.P. No.4903 of 2001 and batch.

(4) M/s. Streetline Electric vs. Regional Provident Fund Commissioner in Appeal (Civil) No.6498 of 1998 (SCC).

(5) N.E.P.C. Tea Garden vs. The Regional Provident Fund Commissioner in W.P. No.4879 & 4880 of 2016.

(6) Assistant Provident Fund Commissioner vs. Employees Provident Fund Appellate Tribunal and another in W.P. No.4633 of 2012.

(7) The Regional Provident Fund Commissioner vs. Employees Provident Fund Appellate Tribunal and another in W.P. No.6643 of 2014.

(8) M/s. PGC Textiles Corporation vs. EPF in W.A. No.101 of 2020.

(9) M/s. PGC Textiles Corporation vs. EPF in SLP No.10547 of 2020.

(10) Horticulture Experiment Station, Gonikoppal, Coorg vs. The Regional Provident Fund Organization in Civil Appeal Nos.2136 of 2012 – Hon'ble Supreme Court of India.

(11) Sri Ramalinga Choodambikai Mills vs. Employees Provident Fund Appellate Tribunal and another in W.P. No.2435 of 2012.

(12) The Assistant Provident Fund Commissioner vs. M/s. Lakshmi Machine Works in Civil Appeal No.6100 of 2023.

(13) Guru Nanak College vs. Employees Provident Fund Appellate Tribunal and others in W.A. No.2855 of 2023 – Madras High Court.

(14) The Assistant Provident Fund Commissioner vs. Employees Provident Fund Appellate Tribunal and another in W.P. (MD) No.8808 of 2016.

3. The learned counsel appearing for the respondent would submit that the respondent made payments belatedly. However, already the entire contributions were paid and the interest also awarded by the Authority. However, the Appellate Authority, after applying mind, as per the judgment of Hon'ble Supreme Court, has correctly allowed the appeal by holding that in appropriate cases, the Authority can waive and reduce the damages. As far as the judgment of Hon'ble Supreme Court in ***Horticulture Experiment Station Gonikoppal, Coorg vs. The Regional Provident Fund Organization*** is concerned, it was subsequent to the judgment of ***HMT Limited case*** and the order passed by the Appellate Authority. Moreover, there is an enormous delay in filing the Writ petition. The order passed by the Appellate Authority was on 16.10.2014, but without explaining any reason for such an huge delay, the present Writ petition has been filed only on 07.06.2023, after 9 years. Therefore, the Writ petition is liable to be dismissed on the sole ground of 'delay and laches'. Even on merits, the Writ petition deserves to be dismissed, since the Appellate Authority has passed a reasoned order after applying his mind. The Hon'ble Full Bench of this Court also in ***Sun Pressings (P) Ltd.,***

vs. The Presiding Officer, EPF Appellate Tribunal and another in W.P. (MD) Nos.7339 of 2013 and batch cases, stated that the Authority while exercising power under Section 14-B of the Act, has to apply its mind and in appropriate cases, the Authority can waive and reduce the damages. Therefore, the order passed by the Appellate Authority by setting aside the order of the Assistant Provident Fund Commissioner dated 20.08.2014 is within the powers of the Appellate Authority. Therefore, there is no perversity or any illegality found in the order passed by the Appellate Authority and the present Writ petition is liable to be dismissed.

5. In support of his contention, the learned counsel appearing for the respondent has relied upon the following judgments:

1.The Central Board of Trustees, Employees Provident Fund Commissioner and others vs. Teknoturf Info Services Pvt. Ltd., and others reported in MANU/TN/1061/2025.

2.Assistant Provident Fund Commissioner vs. M/s. Lakshmi Machine Works Ltd., and another in Civil Appeal No.6100 of 2023 – Hon'ble Supreme Court of India.

3.The Central Board of Trustees, Employees Provident Fund Commissioner and others vs. Teknoturf Info Services Pvt. Ltd., and others reported in MANU/TN/0899/2025.

4.Office of the Chief Post Master General and others vs. Living Media India Ltd., and others reported in AIR 2012 SC 1506.

6. This Court heard both sides and perused the records.

7. This Writ petition has been filed as against the order passed by the Appellate Authority under EPF and MP Act. The Assistant Provident Fund Commissioner, Salem computed the damages under Section 14-B of the Act on 20.08.2014 by quantifying the amount as Rs.6,09,091/- after hearing the employer i.e., the respondent herein. However, the respondent preferred an appeal before the Appellate Tribunal under the Employees Provident Funds and Miscellaneous Provisions Act and the Appellate Tribunal after discussing about the provisions of Section 14-B of the Act and after referring the judgments of Hon'ble Supreme Court, came to a conclusion that there was no wilful default committed by the appellant in remitting the Provident Fund dues and the penal damages should be more or less compensatory in nature. The appeal preferred by the appellant to this extent is succeeded and came to a conclusion that the respondent has failed to prove on record that the appellant establishment has willfully defaulted in remitting the provident fund contributions and the delay in remittance of PF Contributions cannot be held as deliberate. Thereby, allowed the appeal by setting aside the order of the Assistant Provident Fund Commissioner, Salem. Aggrieved by the said order,

the Assistant Provident Fund Commissioner, has filed the present Writ petition with delay of around 9 years.

8. In fact, the Appellate Authority passed the order on 16.10.2014, the petitioner has filed this Writ petition on 07.06.2023. There is no any explanation for the above said inordinate delay of 9 years. The Writ petitioner ought to have challenged the order of the Appellate Authority within a reasonable time and after a lapse of 9 years, this Writ petition has been filed without any explanation for the delay. Therefore, as rightly contended by the learned counsel appearing for the respondent that this Writ petition is to be dismissed on the grounds of 'delay and laches'. Therefore, this Court, without going into the merits of the case, is inclined to dismiss the Writ petition on the ground of 'delay and laches'.

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

19.08.2025
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Index : Yes/No
Speaking order/non-speaking order
mjs

P.DHANABAL, J.,

mjs

To

The Employees Provident Fund
Appellate Tribunal,
New Delhi.

W.P. No.17888 of 2023

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