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W.P. No.28674 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.28674 of 2022
and W.M.P. No.27959 of 2022

The Management,
M/s. Green Textile Process,
represented by its Managing Partner
S. Selvakumar,
S.F. No.179/BB-1, M.P. Mill Thottam,
Pachankattupalayam,
Arulpuram Post,
Tirupur - 641 605. .. Petitioner

vs.

1. The Regional Provident Fund Commissioner-II,
The Employees' Provident Fund Organization,
District Office,
497, 1st Floor,
M/s. Muthusamy & Bros Industrial Complex,
Palladam Road, Tirupur - 641 604.

2. The Recovery Officer,
E P F O Regional Office,
Dr. Balasundaram Road, Coimbatore - 641 018. .. Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for the entire records in pursuance to the impugned order in EPFA No.35 of 2022 dated 07.09.2022



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passed by the Central Government Industrial Tribunal / Employees' Provident Funds Appellate Tribunal, Chennai in so far as it relates to the portion of imposing the condition of deposit for a sum of Rs.7,00,000/- out of the disputed amount of Rs.28,31,968/- as damages assessed under Section 14(B) of the EPF & MP Act, 1952.

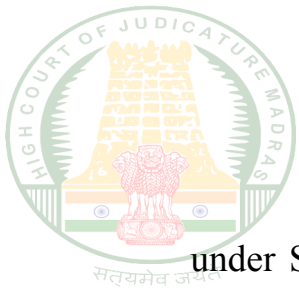
For Petitioner : Mr. A. Deivasigamani

For Respondents : Mr. P.K. Panneer Selvam

ORDER

This Writ petition has been filed praying to set aside the order passed by the Appellate Authority, wherein, the 1st respondent passed an order under Section 14(B) of the EPF & MP Act by quantifying the damages and the same was challenged by the petitioner before the Appellate Authority in EPFA No.35 of 2022, wherein the Appellate Authority passed a conditional order dated 07.09.2022 to deposit a sum of Rs.7 lakhs within 2 months i.e., on or before 09.11.2022 and the same is now under challenge by the petitioner.

2. The learned counsel appearing for the petitioner would submit that the petitioner Management already paid contribution for a sum of Rs.94,95,671/-and also paid the entire interest for the contribution amount to the tune of Rs.13,62,926/-. Thereafter the 1st respondent passed an order



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under Section 14(B) of the EPF & MP Act by quantifying damages amount for a sum of Rs.28,31,968/-. The petitioner challenged the said order before the Appellate Authority by filing EPFA No.35 of 2022. In the said appeal, the petitioner filed a petition to stay the order of the 1st respondent and the Appellate Tribunal also granted stay with a condition to pay a sum of Rs.7 lakhs on or before 09.11.2022 through an order dated 07.09.2022. The said conditional order passed by the Appellate Authority is against law and the condition is an onerous condition. Since the interest amount was already paid by the petitioner, without any statutory requirement for making pre-deposit while preferring an order, the conditional order passed by the Appellate Authority is against law. Now, the petitioner Management is facing financial crisis and the Tribunal without jurisdiction passed the impugned order. The Tribunal failed to consider that already the entire contribution amount and the interest amount were deposited by the petitioner on instalment basis. Therefore, the order passed by the Tribunal is liable to be set aside.

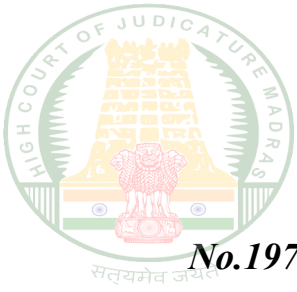
2.1. In support of his contention, the learned counsel appearing for the petitioner has relied upon the judgment of this Court passed in *the Management, M/s. Eco Pure Technologies Private Limited v. The Regional Provident Fund Commissioner-II and another in W.P. No.3534 of 2020.*



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3. The learned counsel appearing for the respondent would submit that the petitioner has not paid the contribution amount within time, thereby, the 1st respondent passed an order under Section 14(B) of the EPF & MP Act. Thereafter, they passed an order by imposing interest for the amount for the belated payments. Since there was a delay in payment of contribution, interest was already awarded and the same was also paid. Therefore, the 1st respondent passed a reasoned order by quantifying the amount of damages to the tune of Rs.28,31,968/-. Though the appeal is pending, the petitioner sought for an interim stay, thereby, the Appellate Authority passed a conditional order by invoking its discretion. Therefore, the Appellate Authority passed a reasoned order and there is no illegality or perverse found in the conditional order passed by the Appellate Authority. Once the petitioner made payments belatedly, it is the duty of the respondent to initiate proceedings under Section 14(B) of the Act on the recovery of damages. The conditional order passed by the Appellate Authority is well within its jurisdiction. Already this Court decided that ordering the Appellant to deposit some amount is within the jurisdiction and the same is also accepted by this Court vide order passed in ***Tamil Nadu Sait Corporation Limited vs. The Assistant Provident Fund Commissioner, Chokkikulam in W.P.(MD)***



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No.19741 of 2019 and therefore, prayed to dismiss the petition.

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

5. It is an admitted fact that there was a delay in payment of contribution amount and thereafter, the said contribution amount was paid. It is also an admitted fact that the petitioner has paid the entire interest amount awarded by the Authority. Now the 1st respondent passed an award under Section 14(B) of the EPF & MP Act for recovery of damages to the tune of Rs.28,31,968/-. The petitioner challenged the said order through an appeal before the Appellate Authority in EPFA No.35 of 2022, wherein the petitioner sought for interim stay in the said application. The Appellate Authority passed an order dated 07.09.2022 by staying the order passed by the 1st respondent on condition to deposit a sum of Rs.7,00,000/- on or before 09.11.2022.

6. According to the petitioner, ordering to deposit the above said amount is not within the jurisdiction and when the petitioner paid the entire contribution amount and interest, awarding of damages is not warranted. Since the petitioner has already paid the interest amount, he is not liable for payment of damages and therefore, the order passed by the Appellate



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Authority is erroneous. According to the respondent, the ordering to deposit is within its jurisdiction and the petitioner sought for interim stay and the Appellate Authority has jurisdiction to impose such conditions.

6. This Court also perused the judgments submitted on both sides. As far as the judgment passed in the *Management, M/s. Eco Pure Technologies Private Limited v. The Regional Provident Fund Commissioner-II and another in W.P. No.3534 of 2020* is concerned, this Court set aside the conditional order passed by the Appellate Authority on the ground that there is no statutory requirements for making any pre-deposit, as in the case of an appeal preferred against an order made under Section 7A of the Act. As far as the judgment relied upon by the learned counsel appearing for the respondent in *Tamil Nadu Sait Corporation Limited vs. The Assistant Provident Fund Commissioner, Chokkikulam in W.P.(MD) No.19741 of 2019* is concerned, this Court after referring various judgments, came to a conclusion that the order passed by the Appellate Authority is only a conditional order for grant of stay of order under Section 14(B) of the Act and the Tribunal is having discretion to stay recovery initiated by the petitioner upon any condition as it deem fit including the condition of depositing the amount is permissible. Therefore, in view of the above judgments, it is clear that pre condition to



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deposit some amount for granting interim stay is not mandatory and it is only discretionary.

7. In the case on hand, already the petitioner deposited the entire amount of contribution and also the interest amount. Now the 1st respondent passed an order by quantifying damages and the same is under challenge. Therefore, the order passed by the Appellate Authority on condition to deposit a sum of Rs.7 lakhs is not warranted, as it is not mandatory. There is a procedure to recover the amount after the order passed by the Appellate Authority. Therefore, in the case on hand, it is not appropriate to pass a conditional order to deposit damages amount for granting stay. Therefore, the order passed by the Appellate Authority in EPFA No.35 of 2022 dated 07.09.2022 is liable to be set aside, in so far as deposit of Rs.7,00,000/- is concerned.

8. With the above discussions, this Court is of the opinion that this Writ petition is to be allowed.

9. Accordingly, the Writ petition is allowed by setting aside the order passed by the Appellate Authority EPFA No.35 of 2022 dated 07.09.2022 in respect of deposit an amount of Rs.7 lakhs towards damages. Since already stay is granted by the Appellate Authority, this Court directs the Appellate



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Authority to dispose the appeal within **2 (two) months** from the date of receipt of a copy of this order, purely on merits, without any influence of this order. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

23.06.2025

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

To

1. The Regional Provident Fund Commissioner-II,
The Employees' Provident Fund Organization,
District Office,
497, 1st Floor,
M/s. Muthusamy & Bros Industrial Complex,
Palladam Road, Tirupur - 641 604.

P. DHANABAL, J.,

mjs

2. The Recovery Officer,
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