



W.P. No. 30827 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 30-10-2025

CORAM

THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P No. 30827 of 2023

and

W.M.P. No. 30500 of 2023

M/s. Josco Footwear Products Pvt. Ltd.,
No.1-4, Abishegapakkam Main Road,
Abishegapakkam,
Pondicherry – 605 007.

..Petitioner

Vs

1.The Regional Provident Fund Commissioner,
O/o. The Employees Provident Fund Organisation,
No.101, 100 Feet Road, Cholan Nagar,
Olanthaikeerapalayam,
Puducherry – 605 004.

2.The Recovery Officer,
Employees Provident Fund Organisation,
Sri Venni Complex,
No.101, 100 Feet Road, Cholan Nagar,
Olanthaikeerapalayam,
Puducherry – 605 004.



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3. The Branch Manager,
CSB Bank,
Rangapillai Street,
Puducherry – 605 001.

..Respondents

Writ petition is filed under Article 226 of Constitution of India, praying for issuance of writ of certiorarified mandamus, to call for the records of the impugned order passed by the 1st respondent in proceedings No.TN/RO/PDY/448-B/PDC/14-B/PENAL DAMAGES/2023, dated 31.03.2023 and the Consequential Prohibitory order passed by the 2nd respondent in his proceedings in No.RO/PDY/Recovery/DIV-I/PC 448-B/CP-5/(3)/2023 dated 21.09.2023, quash the same and consequently forebear the 1st and the 2nd respondent from taking any action against the petitioner without following the due process of law.

For Petitioner : Ms. AMI. V.Kataria

For Respondents : Mr. C. Kulanthaivel, for R1 & R2

ORDER

1. The captioned writ petition has been filed challenging the order dated 31.03.2023 passed by the first respondent under Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. By



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the said order, a sum of Rs.5,92,324/- has been sought to be recovered as damages from the writ petitioner for delayed remittance of provident fund contributions.

2. Learned counsel for the writ petitioner submitted that the impugned order does not disclose the rate of damages/interest levied on the delayed payment of provident fund contributions. According to the petitioner, the respondent-authority appears to have mechanically imposed damages at the rate of 25%, which is the upper limit under Regulation 32A of the Employees' Provident Funds Scheme, 1952. It is contended that, in the absence of proper reasons and without disclosure of the applicable rate as required under the scheme, the impugned order is not in conformity with Regulation 32A and is therefore liable to be quashed.

3. Per contra, learned counsel for the respondents 1 and 2 submitted



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that against an order passed under Section 14B of the Act, an efficacious

alternative remedy of appeal is available under Section 7-I of the Act,

1952, and therefore, the present writ petition, having been filed without

exhausting the said alternative remedy, is not maintainable. It was further

submitted that the petitioner was provided with sufficient opportunity of

hearing, and the damages were quantified by applying the rate of 25% as

provided under Regulation 32A. Hence, according to the respondents, the

impugned order does not suffer from any infirmity and the writ petition is

liable to be dismissed.

4. The submissions of the learned counsel on either side and the materials placed on record have been duly considered.

5. Admittedly, the petitioner defaulted in remitting the employees' provident fund contributions and the payments were made belatedly.

Section 14B of the Act, 1952 empowers the authority to recover damages



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from an employer who defaults in payment of any contribution under

Section 6 of the Act. The authority is empowered to impose damages by way of penalty, not exceeding the amount of arrears, as may be specified under the scheme.

6. Regulation 32A of the Employees' Provident Funds Scheme, 1952 prescribes a schedule of rates of damages depending upon the duration of default. In the present case, the duration of default is admittedly more than six months, for which the maximum rate of damages prescribed is 25% per annum.

7. The Division Bench of this Court in W.A. No. 1382 of 2014, decided on 27.06.2023, has held that while levy of interest on delayed PF contribution is mandatory, the quantum of damages under Section 14B is discretionary and must be determined having regard to the facts and circumstances of each case. The rate mentioned in Regulation 32A is only



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an upper limit, and the authority is not expected to mechanically apply the

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maximum rate in every case.



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WEB COPY 8. In the instant case, the respondent-authority has not assigned any reasons for imposing damages at the maximum rate of 25%. Though an alternative remedy of appeal is available under Section 7-I of the Act, having regard to the admitted facts and considering that the respondent-authority has mechanically applied the upper-limit without exercising discretion, this Court holds that the writ petition is entertainable, notwithstanding the availability of an alternative remedy.

9. In order to give quietus to the dispute, this Court is of the view that the ends of justice would be met by fastening the petitioner with liability to pay damages at the rate of 12.5% per annum. The respondent-authority shall accordingly recalculate the damages on the arrears of EPF at the rate of 12.5% per annum.

10. Accordingly, the writ petition is allowed in part. The impugned



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order dated 31.03.2023 passed by the first respondent is set aside, and the

respondent-authority is directed to pass a fresh order, levying damages at

the rate of 12.5% per annum on the arrears of EPF.



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11. The said exercise shall be completed within a period of one month from the date of uploading of the web copy of this order, without waiting for the certified copy.

12. Consequently, the connected miscellaneous petition is closed.

No costs.

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Index : Yes/No

Neutral Citation : Yes/No

AT

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9/12



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HEMANT CHANDANGOUDAR, J.

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