WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2025

CORAM:

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.31962 of 2023
and WMP.No.31548 of 2023

M/s.Vigil Security Bureau Pvt.Ltd.,
rep.by its Managing Director
Mr.Haridass Menon,
No.3, 1st street Sivakamipuram,
Thiruvanmiyur,
Chennai 600 014. ...Petitioner

Vs

The Regional Provident Fund Commissioner
Chennai Region,
No.37, Royapettah High Road,
Chennai 600 014. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the CGIT, Chennai in EPFA No.103/2018 order dated 11.08.2023 and quash the same and allow the condone delay of 423 days (303+120=423) in filing the EPFAT Appeal.

For Petitioner : Mr.R.Vasudevan

For Respondent : Mr.Vishnu Ramu
Standing Counsel

https://www.mhc.tn.gov.in/judis

WEB COPY

ORDER

This Writ Petition is filed challenging the order dated 11.08.2023 of the respondent rejecting the petitioner's appeal on the ground of delay.

2. The Regional Provident Fund Commissioner, Chennai Region, passed the order dated 29.05.2014, for recovery of dues of Rs.25,42,666/- under Section 7A. The petitioner challenged the said order before the EPF Tribunal, Delhi, on 24.09.2015, which was registered as Appeal No.ATA No.1114 (13)/2015. Later, the said appeal was transferred to the respondent Tribunal, Chennai and renumbered as Appeal No. EPFA.103/2018. While so, the petitioner filed writ petition in W.P.No.25149 of 2022 and this Court by order dated 20.09.2022 disposed of the writ petition by giving liberty to the petitioner to pursue the condone delay application before the Tribunal with further direction to the Tribunal to take a decision on merits and dispose the appeal within a period of 60 days, from the date of receipt of a copy of the order. Thereafter, the respondent relying on the Rule 7 (2) of the EPFAT (Tribunal Procedure) Rule 1977, dismissed the appeal petition by order dated 11.08.2023. Challenging the said order, the petitioner has filed the

https://www.mhc.tn.gov.in/judis

WEB COPY

above writ petition.

3. The learned counsel for the petitioner submitted that in the earlier round of litigation filed in W.P.No.25149 of 2022 this Court by order dated 20.09.2022, directed the respondent to dispose of the appeal within a period of 60 days, but instead of disposing the appeal on merits dismissed the appeal on the ground of limitation.

4. The learned Standing Counsel for the respondent on the other hand submitted that the Court had not given any specific direction to dispose the appeal on merits, but only directed the respondent to consider the application to condone the delay and to take decision on merits and dispose it within a period of 60 days. The learned counsel relying upon the judgment of the Hon'ble Supreme Court in ***CCT Vs Glaxo Smith Kline Consumer Health Care Ltd.***, reported in ***(2020) 19 SCC 681,*** submitted that this Court under Article 226 of the Constitution, cannot extend the period of limitation beyond the statutory period prescribed in the Act. The learned Standing Counsel therefore, submitted that the writ petition deserved to be dismissed.

https://www.mhc.tn.gov.in/judis

WEB COPY

5. Heard both sides and perused the materials available on record.

6. Admittedly, the petitioner approached this Court by way of writ petition in W.P.No.25149 of 2022, with a prayer for writ of mandamus to direct the respondent to condone the delay of 465 days, including the statutory period of 120 days, in filing the original appeal before the Appellate Tribunal, at New Delhi, later renumbered as EPFA No.103/2018 on the file of CGIT, Chennai. This Court by order dated 20.09.2022 held as follows:-

> "The petitioner though has moved this writ petition to seek for a direction by way of mandamus to the Tribunal called Employees Provident Fund Appellate Tribunal at Chennai to condone the delay of more than 460 days in filing the appeal before the said Tribunal this Court finds that the said application submitted by the petitioner to condone the said delay in filing the appeal dated 07th July 2022 is yet to be disposed of by the Tribunal. Therefore, it is open to the petitioner to pursue the said application before the Tribunal and it is for the Tribunal to take a
>
> decision on merits and dispose it within a period of 60 days

https://www.mhc.tn.gov.in/judis

WEB COPY

from the date of receipt of a copy of this order. Depending upon the outcome of the decision to be made by the Tribunal, the further course of action can be decided, if he is advised to do so, by the petitioner.

7.A bare reading of the aforesaid order, makes it explicit that this Court only directed the Tribunal to take a decision on merits and dispose the appeal within a period of 60 days. This Court did not direct the Tribunal to hear the appeal without reference to limitation. The aforesaid order of this Court cannot be construed as a direction to the Tribunal to hear the appeal irrespective of the bar of limitation. The respondent by invoking Rule 7(2) of the EPFAT (Tribunal Procedure) Rule 1997 held that it had no jurisdiction to extend the period of limitation, beyond the period of 120 days including the extended period.

8.The issue is whether this Court has the power to enlarge the limitation beyond the period statutorily provided.

9.In my view, the said issue is directly covered by the judgment of the Hon'ble Supreme Court in ***Assistant Commissioner [CT] LTU,***

https://www.mhc.tn.gov.in/judis

WEB COPY

Kakinada and Others Vs. Glaxo Smith Kline Consumer Health Care Limited reported in ***2020 [19] SCC 681.***

10.The Hon'ble Supreme Court, in paragraph No.19, held as follows:-

> ***"9.*** *We may now revert to the Full Bench decision of the Andhra Pradesh High Court in Electronics Corpn. of India Ltd. [Electronics Corpn. of India Ltd. v. Union of India, 2018 SCC OnLine Hyd 21 : (2018) 361 ELT 22] , which had adopted the view taken by the Full Bench of the Gujarat High Court in Panoli Intermediate (India) (P) Ltd. v. Union of India [Panoli Intermediate (India) (P) Ltd. v. Union of India, 2015 SCC OnLine Guj 570 : AIR 2015 Guj 97] and also of the Karnataka High Court in Phoenix Plasts Co. v. CCE [Phoenix Plasts Co. v. CCE, 2013 SCC OnLine Kar 10432 : (2013) 298 ELT 481] . The logic applied in these decisions proceeds on fallacious premise. For, these decisions are premised on the logic that provision such as Section 31 of the 2005 Act, cannot curtail the jurisdiction of the High Court under Articles 226 and 227 of the Constitution. This approach is faulty. It is not a*

https://www.mhc.tn.gov.in/judis

WEB COPY

matter of taking away the jurisdiction of the High Court. In a given case, the assessee may approach the High Court before the statutory period of appeal expires to challenge the assessment order by way of writ petition on the ground that the same is without jurisdiction or passed in excess of jurisdiction — by overstepping or crossing the limits of jurisdiction including in flagrant disregard of law and rules of procedure or in violation of principles of natural justice, where no procedure is specified. The High Court may accede to such a challenge and can also non-suit the petitioner on the ground that alternative efficacious remedy is available and that be invoked by the writ petitioner. However, if the writ petitioner chooses to approach the High Court after expiry of the maximum limitation period of 60 days prescribed under Section 31 of the 2005 Act, the High Court cannot disregard the statutory period for redressal of the grievance and entertain the writ petition of such a party as a matter of course. Doing so would be in the teeth of the principle underlying the dictum of a three-Judge Bench of this Court in ONGC [ONGC v. Gujarat Energy Transmission Corpn. Ltd., (2017) 5 SCC 42 : (2017) 3 SCC (Civ) 47] In other words, the fact that the High Court has

https://www.mhc.tn.gov.in/judis

WEB COPY

wide powers, does not mean that it would issue a writ which may be inconsistent with the legislative intent regarding the dispensation explicitly prescribed under Section 31 of the 2005 Act. That would render the legislative scheme and intention behind the stated provision otiose."

11. I am therefore of the view that the order of the authority is legal and valid and hence, calls for no interference.

12. Confronted with the legal impediment, the learned counsel for the petitioner sought permission to pay the balance amount of Rs.15,40,340/- in instalments. The learned counsel further submitted that due to foreclosure of clients, the petitioner's business was seriously affected and therefore the petitioner may be permitted to pay the balance amount in 15 instalments.

13. Taking into consideration that the petitioner's business is seriously affected due to economic recession, the petitioner is permitted to pay the balance amount of Rs.15,40,340 in 10 equated monthly

https://www.mhc.tn.gov.in/judis

WEB COPY

instalments. The petitioner shall pay the first instalment on or before 05.10.2025 and thereafter pay the balance 9 instalments on the 5th of every succeeding English calendar month. It is made clear that if the petitioner defaults in any one installment, the respondent shall be at liberty to take appropriate action for recovery of the amount from the petitioner as per law.

14. With the above observation and direction, this writ petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

16.09.2025

Index:Yes/No
Speaking order/Non-speaking order
dpq

To

The Regional Provident Fund Commissioner
Chennai Region,
No.37, Royapettah High Road,

https://www.mhc.tn.gov.in/judis

Chennai 600 014.

WEB COPY

https://www.mhc.tn.gov.in/judis

WEB COPY

N.MALA, J.

dpq

W.P.No.31962 of 2023

16.09.2025

https://www.mhc.tn.gov.in/judis