



WP(MD)No.2008 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.2008 of 2022

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Regional Office, No.1,
Lady Doak College Road,
Chokkukulam, Madurai 625 002.

...Petitioner

Vs

1.M/s.Kasiviswanathan Medical Agencies,
represented by its Managing Partner,
216, East Veli Street, Madurai – 625 001.

2.The Presiding Officer,
Employees' Provident Fund Appellate Tribunal,
CGIT cum Labour Court,
Chennai – 600 006.

...Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records pertaining to the impugned order of the 2nd respondent CGIT cum EPF appellate tribunal, Chennai in EPFA 297/2017 dated 25.08.2021 and quash the same by confirming the order passed by the Assistant Provident Fund Commissioner, Madurai under Section 14B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 in his proceedings No.TN/RO/MDU/57032/RO/Circle-8/PDC/LD/2011 dated 04.07.2011.



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For Petitioner : Mr.A.John Xavier

For Respondent : No Appearance

ORDER

The Employees Provident Fund Authority has filed this writ petition as against the orders passed by the EPF Appellate Tribunal, Chennai in EPFA 297/2017 dated 25.08.2021. The petitioner EPF authority has initiated proceedings as against the respondent establishment for belated payment of EPF contribution for the period from March 2003 to February 2007. Therefore, the EPF authority conducted enquiry and passed an order dated 04.07.2011 under Section 14B of the Employees' Provident Fund and Miscellaneous Provident Funds Act [in short 'the EPF Act']. This order passed under Section 14B of the EPF Act was challenged before the EPF appellate tribunal and the EPF appellate tribunal has partly allowed the appeal by reducing the damages to 50% on the ground that there was no *actus reus or mens rea* for the belated payment on the part of the respondent



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2.The learned counsel for the EPF authority submits that the findings of the appellate tribunal on the necessity for *mens rea* and the *actus reus* as per the decisions of the Hon'ble Supreme Court referred to in the impugned order are no longer good law in view of the judgment of the Hon'ble Supreme Court in ***Horticulture Experiment Station Gonikoppal Vs Regional Provident Fund Organisation*** reported in ***(2022) 2 SCC 516***, wherein the Hon'ble Supreme Court has held that *mens rea* or *actus reus* is not an essential element for imposing penalty or damages for breach of civil obligations and liabilities

3.There is no representation for the respondent.

4.This Court considered the submission of the learned counsel for the petitioner and perused the materials placed on record.

5.The respondent establishment is covered under the provisions of the EPF Act. Admittedly the respondent has paid the EPF contribution for the period March 2003 to February 2007 belatedly. Therefore, proceedings were initiated under Section 14B of the EPF Act and orders



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were passed levying damages. The establishment challenged it before the appellate tribunal. The EPF appellate tribunal has reduced the damages to 50% on the ground that there was no mens rea on the part of the respondent and also on the ground of Covid-19 pandemic, for the belated payment of EPF contribution pertaining to the period from March 2003 to February 2007. The necessity of *mens rea and actus reus* has already been declared as not essential element for imposing penalty or damages for breach of civil obligations and liabilities, by the Hon'ble Supreme Court in ***Horticulture Experiment Station Gonikoppal Vs Regional Provident Fund Organisation*** reported in (2022) 2 SCC 516 as under:

“19.Taking note of the three-Judge Bench judgment of this Court in Union of India Vs Dharmendra Textile Processors, which is indeed binding on us, we are of the considered view that any default or delay in the payment of EPF contribution by the employer under the Act is a sine qua non for imposition of levy of damages under Section 14-B of the 1952 Act and mens rea or actus reus is not an essential element for imposing penalty / damages for breach of civil obligations / liabilities.”



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6. In view of the above decision, the impugned order passed by the EPF appellate tribunal is set aside and this petition is allowed. No costs.

16.10.2025

DSK

To

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B.PUGALENDHI.J.,

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