



WP(MD)No.1320 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.1320 of 2022

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

...Petitioner

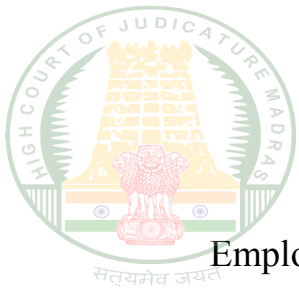
Vs

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

2.M/s.Sun (Tamil Nadu) Security Management,
Service Pvt Ltd Plot No.30,
State Bank Officers,
II Colony By Pass Road,
Madurai -10.

...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 1st respondent CGIT cum EPF appellate Tribunal, Chennai in EPFA No.402 of 2017-ATA 312(13) / 2014 dated 29.07.2021 and quash the same by confirming the order passed by the Assistant Provident Fund Commissioner, Madurai under Section 14B of the



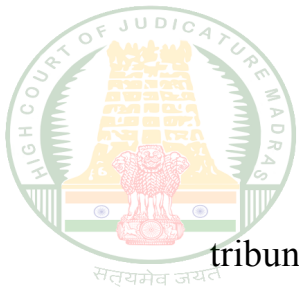
WP(MD)No.1320 of 2022

Employees' Provident Fund and Miscellaneous Provisions Act, 1952 in his vide proceedings No.TN/RO/MDU/42662/M7/PDC/2014, dated 17.02.2014.

For Petitioner : Mr.A.John Xavier
For Respondent : Mr.M.N.Ramkumar
No.2
For Respondent : No Appearance
No.1

ORDER

The Employees Provident Fund Authority has filed this writ petition as against the orders passed by the EPF Appellate Tribunal, Chennai in EPFA No.402 of 2017-ATA 312(13) / 2014 dated 29.07.2021. The petitioner EPF authority has initiated proceedings as against the 2nd respondent security management service for belated payment of EPF contribution for the period from November 2011 to January 2013. The EPF authority after providing opportunity to the 2nd respondent has passed an order dated 17.02.2014 under Section 14B of the Employees' Provident Fund and Miscellaneous Provident Funds Act [in short 'the EPF Act'] fixing the damages as Rs.2,55,627/- . This order passed under Section 14B of the EPF Act was challenged before the EPF appellate



WP(MD)No.1320 of 2022

tribunal and the EPF appellate tribunal has allowed the appeal that there was not *actus reus* or *mens rea* on the part of the employer for the belated remittance of the statutory contribution towards its employees.

The relevant portion is extracted hereunder:

“5.Besides it is also to be seen to if there was any actus reus or mens rea on the part of the Appellant-Employer resulting delayed remittance of the statutory contribution towards its employees. It is necessarily well understood that due to the reason assigned by the appellant regarding the non-flow of funds by the defaulting establishments the appellant establishment was forced to face severe financial crisis for the relevant period ie., from 11.11.2011 to 01/2013. Obviously this caused the delayed remittance. It further reveals that this part of the financial crunch of the appellant, which find place in pleadings in appeal memorandum under para-6(a) & (b) was not taken into consideration by the adjudicating authority. The findings which is contended in the impugned order is completely silent in this aspect as to whether the authority took any step to find out the reasons behind the delayed remittance of dues by the appellant.”



WP(MD)No.1320 of 2022

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2.This court considered the rival submissions made and perused the materials placed on record.

3.The requirement of *mens rea* 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:

“15.Taking note of the exposition of law on the subject, it is well settled that mens rea or actus reus is not an essential element for imposing penalty or damages for breach of civil obligations and liabilities.

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 /



WP(MD)No.1320 of 2022

damages for breach of civil obligations / liabilities.”

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4.The EPF appellate tribunal has allowed the appeal filed by the 2nd respondent employer that the employer has faced financial crisis due to the default of payment to its establishments. This could be a common affair in any business establishment and that may not be a ground for waiving the damages passed under Section 14B of the EPF Act and therefore, the impugned order passed by the EPF appellate tribunal is set aside, with liberty to the 2nd respondent establishment to pay the damages levied by the EPF authority in six equal monthly installments. In the result this petition is allowed. No costs.

14.10.2025

DSK

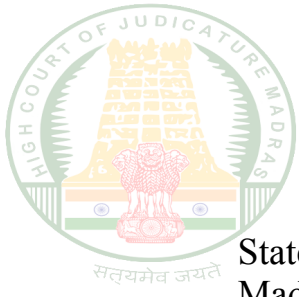
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WP(MD)No.1320 of 2022

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WP(MD)No.1320 of 2022

B.PUGALENDHI.J.,

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WP(MD)No.1320 of 2022

14.10.2025