BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 13.10.2025

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THE HONOURABLE MR. JUSTICE B.PUGALENDHI

WP(MD)Nos.5506 and 6117 of 2022
and
WMP(MD)Nos.4462, 4465 and 4753 of 2022
and WMP(MD)No.5605 of 2024

M/s.Ayyappan Textiles Limited,
(M/s.Srinidhi Industries Ltd.,)
Achudanvayal,
Ramanathapuram – 623 502
Ramanathapuram District
Through its Director ... Petitioner in both W.Ps.

versus

The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organization,
Regional Office
Lady Doak College Road-Chokkikulam,
Madurai – 625 001. ... Respondent in both W.Ps.

Prayer in W.P.(MD)No.5506 of 2022: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records from the file of the CGIT cum Labour Court, Chennai, EPFA No.604/2018 and to quash the interim order dated 29.12.2021 and also direct the respondent not to take coercive steps when an appeal had been admitted by the appellate Tribunal.

Prayer in W.P.(MD)No.6117 of 2022: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records from the file of the CGIT cum Labour Court, Chennai EPFA No.604/2018 and to quash the order dated 29.12.2021 and also the order passed by respondent in No.TN/RO/MDU/5189/M.05/PDC/LD/2017 dated 26.12.2017 under Section 7Q of the EPF Act claiming interest to the tune of Rs.6,61,036/- for the period from 08/2001 to 02/2015.

For Petitioner in both W.Ps. : Mr.C.Karthikeyan

For Respondent in both W.Ps. : Mr.A.John Xavier Standing Counsel

COMMON ORDER

W.P.(MD)No.5506 of 2022 has been filed challenging the interim order passed by the EPF Appellate Authority, Chennai, on the appeal filed by the petitioner Establishment, namely, M/s.Ayyappan Textiles Limited, in EPFA No.604/2018 dated 29.12.2021.

2. W.P.(MD)No.6117 of 2022 has been filed challenging the

dismissal of the appeal filed by the petitioner Establishment in EPFA No. 604/2018, vide order dated 29.12.2021, in respect of the interest claimed by the EPF Authority for the belated payment of EPF contribution under Section 7Q of the Employees Provident Funds and Miscellaneous Provisions Act, 1952, and also the order passed by the EPF Authority under Section 7Q of the Employees Provident Funds and Miscellaneous Provisions Act, 1952, claiming interest for the belated payment of Rs.6,61,036/-.

3. The above appeal has been filed by the petitioner Establishment as against the order dated 26.12.2017 passed by the EPF Authority, levying a sum of Rs.13,17,494/- as damages under Section 14B of the Employees Provident Funds and Miscellaneous Provisions Act, 1952, (hereinafter referred to as 'the Act') for the belated payment of EPF contribution for the period from August 2001 to February 2015. The Appellate Authority, while entertaining the appeal in EPFA.No.604/2018, on 29.12.2021, has passed an order granting interim stay, subject to condition of depositing a sum of Rs.4 lakhs by the petitioner Establishment on or before 28.02.2022. Challenging the same, the

Establishment has preferrred W.P.(MD)No.5506 of 2022 stating that the Appellate Authority, without considering the financial condition of the petitioner Establishment and the reference made before the BIFR, has passed the conditional order of interim stay and it needs to be interfered with.

4. The petitioner Establishment has also filed another writ petition in W.P.(MD)No.6117 of 2022 as against the dismissal of the appeal preferred in respect of order passed by the EPF Authority under Section 7Q of the Act claiming interest of Rs.6,61,036/-. This interest has been demanded by the EPF Authority for the belated payment of EPF contribution for the period from August 2001 to February 2015.

5. Since the issue involved in both the writ peitions are between the petitioner Establishment and EPF Authority, both the writ petitions are taken up together and disposed of by a common order.

6. The learned counsel appearing for the petitioner submits that the petitioner Establishment went in loss and therefore, an application has been filed before the BIFR in the year 1999 to declare the petitioner Unit

as a sick industry and the same was pending before the BIFR in Case No. 301/1999. He further submits that the BIFR has also made a revival proposal, by merging the petitioner Unit with one M/s.Srinidhi Industries Ltd., by framing a scheme in the year 2007. M/s.Srinidhi has also taken over the petitioner Unit and run the same for some time. Since it could not make any profit, the Unit has been closed down in the year 2015. While so, the EPF Authority, without considering the same, has levied damages under Section 14B of the Act for the period from August 2001 to February 2015 and also claimed interest for the belated payment of EPF contribution under Section 7Q of the Act. The petitioner Establishment has also filed a statutory appeal as against the damages levied under Section 14B of the Act and the interest claimed for the belated payment of contribution under Section 7Q of the Act. However, there is no appeal provision available for the interest claimed under Section 7Q of the Act. Therefore, the appeal filed as against the interest claimed under Section 7Q of the Act was dismissed by the Appellate Court. Challenging the same, the petitioner Establishment has filed W.P.(MD)No.6117 of 2022. The Appellate Authority has entertained the appeal filed as against the damages levied under Section 14B of the Act, however, without considering the financial condition of the petitioner Establishment, passed an order granting interim stay, subject to condition of depositing a sum of Rs.4 lakhs on or before 28.02.2022. Challenging the same, the petitioner Establishment has filed W.P.(MD)No.5506 of 2022.

7. The learned counsel appearing for the respondent EPF Authority submits that the issue with regard to the conditional interim order passed by the Appellate Authority, has already been decided by this Court in W.P.(MD)No.4870 of 2022 dated 17.10.2024 that the Appellate Authority can pass a conditonal order, while granting interim stay and it is the discretion of the Appellate Authority and it is not a pre-conditional deposit.

8. Insofar as the writ petition in W.P.(MD)No.6117 of 2022 is concerned, the learned counsel appearing for the respondent EPF Authority submits that though the petitioner Establishment claimed that its Unit became sick, it has been revived and merged with M/s.Srinithi Industries Ltd. Therefore, the EPF contribution is liable to be paid by the

petitioner Establishment and there is no reason to interfere with the order of the appellate authority.

9. This Court considered the rival submissions made.

10. The petitioner Establishment has approached BIFR seeking to declare it as a sick industry that the entire business activities came to a halt on 30.09.1999. The application of the petitioner Establishment was also entertained by BIFR in Case No.301/1999 and a revival package was also worked out in the year 2007 by merging the petitioner Establishment with one M/s.Srinithi Industries Ltd. The EPF Authority has levied the damages for the belated payment of EPF contribution for the period from August 2001 to February 2015.

11. Admittedly, the petitioner Establishment has approached BIFR in the year 1999 that it went on loss and it became sick. While so, the respondent Authority, without considering the financial condition of the petitioner Establishment, levied damages under Section 14B of the Act, for the period from August 2001 to Feb 2015, which has been challenged before the Appellate Authority. The Appellate Authority, while

entertaining the appeal, has granted interim stay subject to condition of depositing a sum of Rs.4 lakhs. Challenging the same, the petitioner has filed W.P.(MD)No.5506 of 2022.

12. Though this Court, in similar issue in W.P.(MD)No.4870 of 2022, dated 17.10.2024, held that the conditional order is not a pre-requisite deposit and the appellate authority is having a discretionary power to pass such conditional order for granting an order of interim stay, the petitioner Establishment deserves for an interference as they have already approached the BIFR in the year 1999 to declare the Unit as a sick industry and a revival pacakage was also announced by the BIFR in the year 2007, that was also not worked out and the unit was closed down in the year 2015. Considering the financial condition of the petitioner Establishment, the Appellate Authority ought not to have passed the conditional order directing the petitioner Establishment to deposit a sum of Rs.4 lakhs. Further, the Appellate Authority, while entertaining the appeal, ought to have considered the relevant factors of the reference made in the year 1999 to the BIFR. However, the Appellate Authority, without considering the same, has passed the conditional order

and therefore, the same is liable to be set aside.

13. Accordingly, W.P.(MD)No.5506 of 2022 is allowed and the impugned order passed by the Appellate Authority in EPFA No.604/2018, dated 29.12.2021, is hereby set aside. The Appellate Authority is directed to dispose of the appeal on merits, without being influenced by any of the observations made by this Court in this writ petition, within a period of four (4) months from the date of receipt of a copy of this order.

14. Insofar as W.P.(MD)No.6117 of 2022 is concerned, the petitioner Establishment has not questioned the determination order fixing the liability under Section 7A of the Act. However, the petitioner Establishment has paid the EPF contribution belatedly. Therefore, the petitioner Establishment is liable to pay interest for the belated payment of EPF contribution as required under Section 7Q of the Act. Considering the financial condition, the petitioner Establishment shall be permitted to pay the interest amount in six (6) equal monthly installments. If there is any error in calculating the interest under Section 7Q of the Act, the same shall be considered by the Authority by

providing an opportunity of hearing to the petitioner Establishment.

15. Accordingly, W.P.(MD)No.6117 of 2022 is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

13.10.2025

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Index : Yes / No.
Internet: Yes / No.
NCC : Yes / No.

To

1. The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organization,
Regional Office
Lady Doak College Road-Chokkikulam,
Madurai – 625 001.

2. The Central Government Industrial
Tribunal cum Labour Court,
Chennai.

B.PUGALENDHI, J.

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