



WP.(MD)Nos.7300 & 349 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.11.2025

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

WP.(MD)Nos.7300 & 349 of 2022

and

WMP.(MD)No.271 of 2022

WP.(MD)No.7300 of 2022

The Regional Provident Fund Commissioner-II,
Employees Provident Fund Organisation,
Regional Office,
No.1, Lady Doak College Road,
Chokkikulam, Madurai-625002

... Petitioner

Vs.

1.M/s.Q-510-Savariyarpattinam Primary
Agricultural Co-Op.Credit Society,
Savariyarpattinam Post,
Kadaladi Taluk, Via Mudukulathur,
Ramanathapuram District-623703.

2.The Presiding Officer,
Employee's Provident Fund Appellate Tribunal,
C.G.I.T cum Labour Court,
Chennai-600 006.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for



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the records pertaining to the impugned order of the second respondent the C.G.I.T. cum EPF Appellate Tribunal, Chennai, in EPFA.238/2017 (ATA 478(13)/2013 dated 20.09.2021 and quash the same by confirming the order passed by the Assistant Provident Fund Commissioner, Madurai under Sec.14B of the Employee's Provident Fund and Miscellaneous Provisions Act, 1952 in his proceedings No.TN / RO / MDU / 29493/RO/M5 / PDC/LD/2013 dated 13.05.2013.

For Petitioner	: Mr.A.John Xavier
For R1	: Mr.E.Marees Kumar, Legal Aid Counsel
For R2	: Mr.C.Venkatesh Kumar, Special Government Pleader.

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Q 510-Savariyarpattinam Primary
Agricultural Cooperative Bank,
now called as
Q 510 Savariyarpattinam Primary Agricultural
Cooperative Credit Society
rep.by its Secretary,
Savariyarpattinam Po
Kadaladi Taluk,
Ramanathapram District 623703.

... Petitioner



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Vs.

The Asst. Provident Fund Commissioner/
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Madurai 625002.

... Respondent

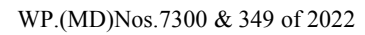
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the records of the impugned order passed by the Employees Provident Fund Appellate Tribunal, Chennai made in EPFA.No. 238/2017 dated 20.09.2021 and quash the same as illegal.

For Petitioner : Mr.R.Saravanan

For Respondent : Mr.P.Karthick

COMMON ORDER

These writ petitions have been filed by the EPF authority and the Primary Agricultural Cooperative Credit Society as against the order passed by the EPF appellate Tribunal in EPFA.No.238/2017 dated 20.09.2021. Since these writ petitions



2.The society is covered under the provisions of the Employee's Provident Fund and Miscellaneous Provisions Act, 1952 [hereinafter referred as 'the Act'] and allotted in TNMDU/29493. The authority has initiated a proceedings under Section 14B of the Act that the society has failed to remit the EPF contribution for the period from March 2004 to February 2010 in time and paid the same belatedly. Therefore, they have levied damages to the tune of Rs.2,19,481/-, by an order dated 29.05.2013. The society has filed appeal before the EPF appellate Tribunal under Section 7I of the Act. The Tribunal by the impugned order has reduced the amount of damages levelled under Section 14B of the Act to 50%.



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3. Being not satisfied with this 50% reduction, the Society has filed a writ petition in WP.(MD)No.349 of 2022. The authority, on the other hand, aggrieved over this 50% reduction, has filed a writ petition in WP.(MD)No.7300 of 2022.

4. There was no representation for the society and therefore, this Court by its order dated 07.10.2025 has appointed Mr.E.Marees Kumar, learned counsel as Legal Aid Counsel for the society. The learned Legal Aid counsel submitted that the loans granted by the society were waived by the Government and it has not been reimbursed by the Government. Therefore, the society went on loss. In such circumstances, levying damages under Section 14B of the Act is not justified.

5. Learned counsel for the Authority pointed out that the EPF appellate Tribunal has reduced the damages into 50% by considering that there is no *mens rea* and the *actus reus*, which has



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already been decided by the Hon'ble Supreme Court in Horticulture Experiment Station Gonikoppal Vs Regional Provident Fund Organisation reported in (2022) 2 SCC 516 in the negative. He has also relied on the decision of this Court in WP. (MD)10785 of 2021 dated 25.09.2025 and submitted that waiver of loan by the Government is not a ground for the belated payment of contribution, which is meant for the welfare of the employees.

6.This Court has considered the submission made on either side and perused the available records.

7.Admittedly, there is a belated remittance of EPF dues. The authority is entitled to levy damages as per the scheme framed under the Act for this belated remittance. The EPF appellate Tribunal has modified the damages levied under Section 14B of the Act by considering that there is no *mens rea* and the *actus reus*. However, the necessity of *mens rea* and *actus reus* has already been declared as not essential element for imposing penalty or damages



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for breach of civil obligations and liabilities, by the 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.”

Therefore, the interference by the Tribunal in this regard cannot be sustained.

8.The contention of the society is that in view of the waiver of loan announced, coupled with the non-reimbursement by the Government, they went on loss and therefore, they could not pay the PF dues in time. However, the society has not placed any



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materials to substantiate this claim. In similar circumstances, in WP.(MD)10785 of 2021 filed by Thirumohur Primary Agricultural Co-op. Bank, this Court has rejected the claim of the society for reducing the damages levied under Section 14B based on the waiver of loan. In the event, if the waiver of the loan is announced by the Government, it is the responsibility of the society to address the issue with the Government and collect the amount/reimbursement from the Government. The Government is also having responsibility towards society, if they are waiving the loan. Therefore, in the absence of any materials, this contention of the society could not be appreciated.

9. In view of the above decision and reasonings, the order passed by the EPF Appellate Tribunal, Chennai, in EPFA. 238/2017 dated dated 20.09.2021 is set aside and the writ petition filed by EPF authority in WP.(MD)No.7300 of 2022 is allowed and the writ petition filed by the society in WP.(MD)No.349 of 2022 is dismissed. The Legal Aid Services Authority is directed to pay a



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sum of Rs.10,000/-to Mr.E.Marees Kumar, to the learned Legal
Aid Counsel. No costs. Consequently, connected miscellaneous
petition is closed.

04.11.2025

NCC : Yes/No
Index : Yes/No
Internet:Yes
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To

The Presiding Officer,
Employee's Provident Fund Appellate Tribunal,
C.G.I.T cum Labour Court,
Chennai-600 006.



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B.PUGALENDHIJ

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