



W.P(MD)No.7040 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2025

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CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.19483 of 2023

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

... Petitioner

Vs

1.M/s.Peace Trust,
R/o.Peace College Education &
Peace Industrial School,
Near Police Housing Colony,
Trichy Road, Dindigul – 624 005.
Represented by its Chairman.

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

...Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records pertaining to the impugned order of the 2nd respondent, ie., the CGIT cum EPF Appellate Tribunal, Chennai in EPFA 281/2018) (A/TN-88/2016 dated 23.08.2021 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



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Provisions Act, 1952 in his proceedings
No.TN/RO/MDU/59846/M13/PDCILD/2016 dated 21.09.2016.

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For Petitioner : Mr.John Xavier
For Respondents : Mr.Hemakarthiskeyan
No.1
Respondent : No appearance
No.2

ORDER

The EPF Appellate Tribunal, Chennai, by its order in EPFA No. 281/2018 dated 23.08.2021 has modified the damages levied under Section 14B of the the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 [hereinafter referred ti as “EPF Act”]. Challenging the same EPF authority has filed this writ petition.

2.The learned counsel appearing for the petitioner/EPF authority submits that the second respondent/establishment is running a college of education and covered under EPF Act with code No.59846. They have also collected EPF contribution. However, they have failed to make payment to the EPF authority for the period from June 2013 to February 2016. Therefore, proceedings were initiated under Section 14B of EPF Act and an opportunity was also provided to the second respondent/establishment. The employer was advised to appear before



the enquiry authority for personal hearing, on 03.08.2016, by a notice dated 28.06.2016. The administrative officer of the establishment appeared and requested for waiver, but not disputed the damages. Therefore, with the available materials, the authority come to a conclusion damages have been levied as per Section 32(A) of EPF Scheme, 1952. However, the appellate tribunal has modified the damages it to pay 35% of the amount.

3.The learned counsel for the petitioner/EPF authority also submits that the second respondent/establishment has preferred an appeal without assigning any reason and the same was also entertained by the tribunal in a mechanical manner on the ground that there was no *actus reus* or *mens rea* for the belated payment on the part of the second respondent / establishment. Further, 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 is 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.



4.This Court considered the submissions made by the petitioner and perused the materials placed on record.

5.The second respondent establishment is covered under the provisions of the EPF Act. Admittedly the establishment has failed to make payment for the period from June 2013 to February 2016, and paid the amount belatedly. Therefore, proceedings were initiated under Section 14B of the EPF Act and several opportunities of hearing have also been provided to the second respondent/ establishment, and finally orders were passed levying damages.

6.The establishment challenged it before the appellate tribunal. The EPF appellate tribunal has reduced the damages to 35% on the ground that there was no *mens rea* on the part of the second respondent for the belated payment of EPF contribution pertaining to the period from June 2013 to February 2016. 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:



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“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.”

7.In view of the above decision, the order passed by the EPF Appellate Tribunal, Chennai, in EPFA No.281/2018 dated 23.08.2021 is set aside and the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

DSK

14.10.2025



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To

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B.PUGALENDHI, J.

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