



**W.P.(MD).No.7522 of 2025**

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 29.08.2025**

**CORAM:**

**THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.7522 of 2025**

M/s.B.S.Sundaravadivel Mudaliar & Sons,  
Represented by its Partner,  
B.S.Narayanan,  
4/67 Ananthapuram New Street,  
Palakarai,  
Trichy – 620 008.

... Petitioner

Vs.

1. The Central Provident Fund Commissioner,  
Employees' Provident Fund Organisation,  
Head Office,  
Bhavishya Nidhi Bhawan,  
14, Bhikaji Cama Place,  
New Delhi – 110 066.
2. Central Government Industrial Tribunal/  
Appellate Authority,  
(EPF) 1<sup>st</sup> Floor,  
B-Wing, 26 Haddows Road,  
Shastri Bhawan  
Chennai – 600 006.
3. Regional Provident Commissioner,  
(Tamil Nadu and Pondicherry)  
No.20, Royapettah High Road,  
Chennai 600 014.



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4. Provident Fund Commissioner  
Employees Provident Fund Organisation  
Regional Office  
Post Box No.588, Sree Complex,  
D Block, No.18, Madurai Road  
Trichy 620 008.

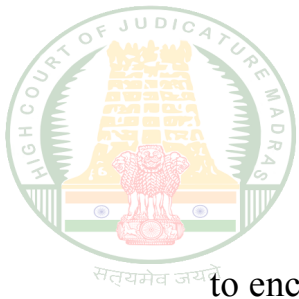
5. Provident Fund Commissioner  
Employees Provident Fund Organisation,  
Division 3, EPFO Regional Office  
S-1, TNHB, Phase III, Sathuvachari  
Vellore 632 009.

6. Enforcement Officer / Recovery Officer,  
Smt. Shanthi,  
EPF Office,  
Madurai Road,  
Trichy 620008.

7. Enforcement Officer/ Recovery Officer,  
Division 3, EPFO Regional Office  
S-1, TNHB, Phase III, Sathuvachari  
Vellore 632 009.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 1 and 3 to 5 to refund a sum of Rs.18,52,059/- along with interest at the rate of 12% per annum with effect from 18-03-1999 recovered from the petitioner under various mode of deposit, recovery and contribution in the light of the Honble Supreme Court of India order dated 18-03-1999 passed in Civil Appeal No.7247 of 1993 in Shri. Mahila Griha Udyog Lijat Pappad case and direct the 3<sup>rd</sup> respondent to issue “No Objection Certificate” to the petitioner



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to encash all the joint Fixed Deposits voluntarily made by the petitioner in the name of the Provident Fund Committee and the petitioner, such as (i) FD No. 07311210000336490019, DBS Bank, Trichy Main Branch, (ii) FD No. 07311210000336520019, DBS Bank, Trichy Main Branch, (iii) FD No. 073112100003366000018, DBS Bank, Trichy Main Branch, (iv) FD No. 867884051, Indian Bank, Trichy Main Branch, within a stipulated period that may be fixed by this Court.

For Petitioner : Mr.C.Thanaseelan

For R4 and R6 : Mr.I.Pinayagash  
Standing Counsel

### **ORDER**

The present Writ Petition has been filed by a Beedi Manufacturing unit seeking a Writ of Mandamus, directing the respondents 1 and 3 to 5 to refund a sum of Rs.18,52,059/- along with interest at the rate of 12% per annum with effect from 18-03-1999 recovered from the petitioner under various mode of deposit, recovery and contribution in the light of the order of the Honble Supreme Court of India dated 18-03-1999 passed in Civil Appeal No.7247 of 1993 in the case Shri. Mahila Griha Udyog Lijat Pappad and direct the 3<sup>rd</sup> respondent to issue “No Objection Certificate” to the petitioner to encash all the joint Fixed Deposits voluntarily made by the petitioner in the name of the



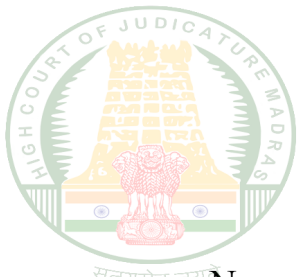
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Provident Fund Committee and the petitioner, such as (i) FD No. 07311210000336490019, DBS Bank, Trichy Main Branch, (ii) FD No. 07311210000336520019, DBS Bank, Trichy Main Branch, (iii) FD No. 073112100003366000018, DBS Bank, Trichy Main Branch, (iv) FD No. 867884051, Indian Bank, Trichy Main Branch.

2. According to the learned counsel appearing for the writ petitioner, as per the Notification of the Union of India, the Beedi Industry was brought within the purview of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. However, the said Notification was put to challenge by the Beedi Industry and ultimately the said Notification as was upheld by the Hon'ble Supreme Court. In the meantime, the period during which the issue was under adjudication before the various fora, the Union of India by way of a direction issued under Paragraph No.78 of the Employees Provident Fund Scheme has waived the employees' contribution. However, the employees contribution for the said period has not been waived.

3. During the above said period, the employer is said to have made a contribution by way of depositing various amount as referred to in the prayer.



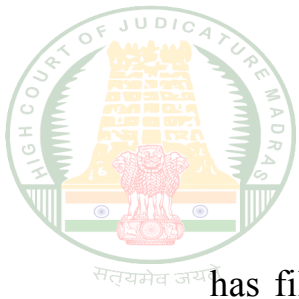
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Now, the present Writ Petition has been filed seeking refund of the above said amount primarily on the ground that when the employer's contribution has been waived, it should be presumed that the employees' contribution has also been waived.

4. The learned counsel appearing for the petitioner relied upon the judgment of the Hon'ble Supreme Court reported in ***(2001) 2 SCC 612 (S.K.Nasiruddin Beedi Merchant Limited Vs. Central Provident fund Commissioner and another)*** and ***(1999) 6 SCC 38 (Shri Mahila Griha Udyog Lijjat Papad Vs. Union of India and another)*** to contend that the period during which the notification was under challenge was waived by the Hon'ble Supreme Court.

5. Per contra, the learned Standing Counsel appearing for the respondents Employees' Provident Fund Organization submitted that the petitioner unit suffered an order under Section 7-A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 Act. This order was put to challenge before the Appellate Tribunal, New Delhi. The said appeal was dismissed for default on 30.06.1998. Challenging the same, the petitioner



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has filed W.P.Nos.14143, 14599 and 13080 of 1998 before this Court. This Court, by an order dated 25.11.1998, allowed the above said Writ Petitions with a direction to the Appellate Tribunal to restore the appeal on condition that the employer/petitioner herein to deposit a sum of Rs.3,50,000/- (Rupees Three Lakh and Fifty Thousand only).

6. The learned Standing Counsel appearing for the respondents further submitted that though the petitioner has complied with the orders of the High Court, it had not been brought to the notice of the appellate Tribunal and therefore, the appeal was not restored. Thereafter, the Appellate Tribunal was shifted to Chennai in the year 2017. Therefore, the appeal was not restored by the Appellate Tribunal, Delhi and the appeal papers have also not been transferred to the Chennai Tribunal. Thus, the issue relating to the liability of the employer has not yet been adjudicated, and as such the question of refund of the amount would not arise at this point of time.

7. Heard the learned counsel on either side and perused the materials available on record.



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8. The present prayer for refund of the amount cannot be considered at this point of time, in view of the fact that the petitioner is appeal yet to be disposed of. Though the petitioner has complied with the orders of this Court dated 25.11.1998 in W.P.Nos.14143, 14599 and 13080 of 1998, the same was not brought to the notice of the Appellate Tribunal, New Delhi by way of filing a Memo. In such circumstances, the appeal papers have not been transferred to the Chennai Tribunal. Since the said appeal has not yet been decided on merits, the question of directing refund of the amount, as sought by the petitioner, would not at all arise.

9. In view of the above said deliberations, the petitioner is at liberty to file a Memo before the Appellate Tribunal, Delhi, reporting the compliance of the orders of this Court and make a request to the Appellate Tribunal at Delhi to transfer the appeal papers to the Appellate Tribunal at Chennai. The Appellate Tribunal at Chennai shall dispose of the matter on merits and in accordance with law. As soon as the appeal papers are recalled from the Appellate Tribunal, Delhi, the Appellate Tribunal at Chennai, is directed to dispose of the same as directed above, within a period of six months from the date of receipt of the appeal papers from the Appellate Tribunal, Delhi.



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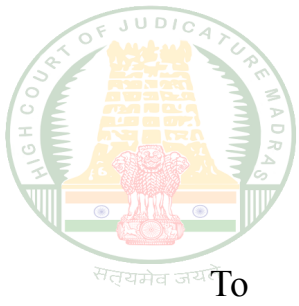
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10. According to the learned counsel appearing for the petitioner, more than Rs.25,00,000/- (Rupees Twenty Five Lakhs only) by way of joint deposit by the petitioner along with the Employees Provident Fund Organization is lying in the bank. According to the petitioner, this amount exceeds the claim made by the Employees Provident Fund Organization under Section 7-A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952. In such circumstances, he prays for refund of the excess amount even before the disposal of the appeal. The petitioner is at liberty to make a request in this regard to the Employees Provident Fund Organization for releasing the amount which is in excess of the liability under the order under Section 7-A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952.

11. With the above said observation, this Writ Petition stands disposed of. There shall be no order as to costs.

**29.08.2025**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes / No  
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**R.VIJAYAKUMAR,J.**

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