



W.A.(MD) No.526 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 05.06.2025

PRONOUNCED ON : 10.06.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.A.(MD) No. 526 of 2019

and

C.M.P.(MD) No.4473 of 2019

The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Regional Office,
Lady Doak College Road,
Chokkikulam,
Madurai - 625 002.

... Appellant/Respondent

Vs.

M/s. Indian Foods Private Limited,
Riverside,
Thiruppuvanam-630611
Rep by its Director.

... Respondent/Petitioner

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying to allow this Writ Appeal by setting aside the orders passed by the Learned Judge in W.P.(MD) No. 2788 of 2015 dated 14.11.2018.

For Appellant : Mr. A. John Xavier.



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For Respondent : Mr. M. Elanchezhian.

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J U D G M E N T
(Delivered by Dr. A.D. Maria clete, J)

Heard.

2.This writ appeal is directed against the order dated 14.11.2018 passed by the learned Single Judge in W.P.(MD) No. 2788 of 2015, by which the order of the Assistant Provident Fund Commissioner imposing damages under Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter "the EPF Act") was set aside solely on the ground that the default in remitting provident fund contributions was not wilful and did not involve *mens rea*.

3.The respondent, an establishment governed by the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, defaulted in the timely remittance of provident fund contributions for the period from April 2010 to March 2013. Pursuant to the issuance of a show cause notice and completion of inquiry, the appellant authority passed an order dated 22.01.2015 imposing damages to the tune of Rs. 9,04,532/- under Section 14B of the EPF Act.



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4.The respondent initially filed a statutory appeal before the EPF Appellate Tribunal, which was subsequently transferred to the Central Government Industrial Tribunal (CGIT), Chennai. However, owing to the non-functioning of the Tribunal due to vacancy, the respondent filed W.P.(MD) No. 2788 of 2015 before this Court.

5.During the pendency of the said appeal, the respondent filed W.P.(MD) No. 2788 of 2015, challenging the order passed under Section 14B of the EPF Act. The learned Single Judge, by order dated 14.11.2018, allowed the writ petition and quashed the damages order on the ground that the default was not wilful and that the provident fund contributions had been remitted, albeit belatedly.

6.The appellant–EPF Authority filed the present writ appeal on 24.04.2019, assailing the reasoning and conclusion of the learned Single Judge.

7.It was brought to our notice that the statutory appeal pending before the CGIT was ultimately disposed of only on 27.02.2024, nearly six years after the



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writ petition had been allowed and while the present writ appeal was still pending.

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8.In our considered view, the learned Single Judge erred in entertaining the writ petition on merits despite the pendency of a statutory appeal, and further, in setting aside the authority's order on the premise that the default was not wilful. This Court has consistently held that proceedings under Section 14B of the EPF Act impose civil liability for breach of a statutory obligation.

9.The question of whether *mens rea* is required to impose damages under the EPF Act is no longer *res integra*, as the issue has been conclusively settled by the Hon'ble Supreme Court in a catena of judgments. In ***Horticulture Experiment Station v. Regional Provident Fund Organization, (2022) 4 SCC 516***, it was held that *mens rea* or *actus reus* is not an essential requirement or *sine qua non* for levying penalty under Section 14B of the EPF Act.

10.The Supreme Court has unequivocally held that *mens rea* is not a necessary ingredient for imposing damages under Section 14B of the EPF Act. The purpose of levying such damages is both compensatory and deterrent, intended to secure prompt remittance of statutory dues. An employer in default



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cannot invoke the absence of *mens rea* or rely on alleged bona fide reasons to avoid liability under Section 14B, as the provision contemplates strict civil liability. The element of guilty intention becomes relevant only in the context of criminal prosecution under Section 14(1) of the EPF Act, and has no application to proceedings for imposition of damages under Section 14B.

11.In light of the settled legal position, the finding of the learned Single Judge that the employer acted without *mens rea* does not absolve the respondent of liability to pay damages under Section 14B of the EPF Act. The proceedings for assessment of damages under Section 14B are, therefore, legally sustainable, and the order of the learned Single Judge warrants interference. Accordingly, the impugned order dated 14.11.2018 passed in W.P.(MD) No. 2788 of 2015 is hereby set aside.

12.As noted earlier, subsequent to the disposal of the writ petition and during the pendency of the present writ appeal, the statutory Appeal No. 622 of 2017 filed by the respondent was disposed of by the Central Government Industrial Tribunal-cum-Labour Court, Chennai on 27.02.2024, setting aside the proceedings dated 22.01.2015 issued by the appellant. However, it is evident that



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the said order was not passed on merits but was merely a consequential outcome of the order passed in the writ petition. Notably, no stay was in force against the original order imposing damages. It is unfortunate that the appellant failed to apprise the Tribunal of the pendency of this writ appeal. More surprising is the fact that counsel appearing for the appellant before the Tribunal did not raise any objection to the passing of such an order, even while contesting the matter in this appeal. Had the pendency of the present appeal been brought to the Tribunal's attention, such an order would not have been passed. Consequently, the order passed by the statutory appellate authority—the CGIT—lacks foundation and is devoid of an independent basis, having been rendered solely in consequence of a writ order which now stands set aside. Accordingly, the order dated 27.02.2024 in Appeal No. 622 of 2017 passed by the CGIT, Chennai, is also quashed.

13.The Central Government Industrial Tribunal is directed to restore Appeal No. 622 of 2017 to its file and dispose of the same on merits, after affording due opportunity to both parties. In view of the protracted pendency, the Tribunal is directed to accord priority to the matter and endeavour to dispose of the appeal preferably within a period of four months from the date of receipt of a copy of this



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order. The appellate authority shall adjudicate the appeal independently, without

being influenced by any observations or findings contained in this order.

14.In the result, this Writ Appeal is allowed. However, there shall be no order as to costs. Consequently, the connected miscellaenous petition is closed.

(S.M.S., J) (A.D.M.C., J)

10.06.2025

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Index : Yes/No

Neutral Citation: Yes / No

Speaking Order / Non-speaking Order

To

1.The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Regional Office,
Lady Doak College Road,
Chokkikulam,
Madurai - 625 002.

2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

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**S.M. SUBRAMANIAM, J
and
DR. A.D. MARIA CLETE, J**

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Judgment made in
W.A.(MD) No. 526 of 2019
and
C.M.P.(MD) No.4473 of 2019

10.06.2025