



WP(MD)No.16051 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 12.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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Central Board of Trustees New Delhi rep by
The Assistant Provident Fund Commissioner,
Office of the Regional Provident Fund Commissioner,
Lady Doak College Road, Chokkikulam,
Madurai District.

... Petitioner

Vs

1. The Presiding Officer,
The Employees Provident Fund Appellate Tribunal,
CGIT cum Labour Court, 1st Floor, B Wing,
26, Haddows Road, Sastri Bhawan, Chennai – 600 006.

2. M/s. Sri Valli Knitters (P) Ltd,
(formerly Valli Knitting (P) Ltd,
N. Venkateswarapuram, N. Subbalapuram
Sattur Taluk, Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records relating to the impugned order passed by the 1st respondent dated 24.07.2019 in EPFA No.288 of 2018 and quash the same as illegal, unconstitutional and consequently direct the 2nd respondent to pay the damages as assessed by the petitioner.



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For Petitioner : Mr.T.Aswin Rajasimman

For Respondent : Mr.M.E.Ilango
No. 2

For Respondent : No appearance
No.1

ORDER

The Employees Provident Fund Authority has preferred this writ petition as against the orders passed by the EPF appellate Tribunal in EPFA No.288 of 2018. The appellate tribunal has set aside the order passed by the EPF Authority under Section 14B of the Employees' Provident Funds and Miscellaneous Provision Act [in short EPF Act] on the ground that there is no *mens rea* for the respondent establishment in paying the contribution belatedly. Admittedly the respondent management has not paid the EPF contribution from the year 1993 to 2003 and paid the same together with interest in the year 2003. Therefore, the proceedings was initiated for levying damages under Section 14B of the EPF Act, however it was initiated in the year 2016. The EPF authority has also levied damages, apart from levying interest under Section 7Q of the EPF Act and that order passed under Section 14B of the EPF Act was challenged by the establishment before



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the appellate authority. The appellate authority by order dated 24.07.2019 has held that there was no *mens rea* for the establishment for the belated payment and has allowed the appeal by setting aside the order passed by the EPF Authority under Section 14 B of the EPF Act. Aggrieved by the order, the management has filed this writ petition.

2.The learned counsel for the petitioner by relying on the earlier order dated 15.10.2025 passed by this court in WP(MD)No.20801 of 2022 submits that the appellate authority is not justified in setting aside the order passed under Section 14B of the EPF Act that there is no *mens rea* or *actus reus*. The question of *mens rea* or *actus reus* is not an essential element for imposing penalty or damages or breach of civil obligations and liabilities. The EPF contribution is not the amount of the establishment, however, they have retained that amount and they have wrongfully enriched and they have to follow the penal provisions under Section 14B of the EPF Act.

3.The learned counsel for the respondent in fact has raised serious objection on the manner in which the proceedings under Section 14 B of



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the EPF Act was initiated after a period of 13 years for the belated payment, which was made in the year 2003.

4.Per contra, the learned counsel for the petitioner has relied on the judgment of the Hon'ble Supreme Court in *Hindustan Times Ltd Vs Union of India and Others* reported in (1998) 2 SCC 242 and submits that the period of limitation does not arise in the proceedings initiated under Section 14B of the EPF Act.

5.This court has considered the rival submissions made and perused the materials placed on record.

6.The EPF appellate tribunal has set aside the order passed by the EPF authority under Section 14B of the EPF Act on the ground that there is no *mens rea* or *actus reus* on the part of the establishment for the belated payment. Admittedly, the EPF contribution for the years 1993 to 2003 was paid belatedly in the year 2003. Therefore, the EPF authority has initiated proceedings under Section 14B of the EPF Act. Section 14B of the EPF Act enables the authority to initiate proceedings for levying



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damages as provided under the EPF scheme. However, this proceedings was initiated with a delay of 13 years. The Hon'ble Supreme Court in ***Hindustan Times Ltd Vs Union of India and Others*** reported in (1998) 2 SCC 242, has held that for the proceedings under Section 14B of the EPF Act, there cannot be any limitation. At the same time, the observation of the EPF appellate tribunal that there is no *mens rea* or *actus reus* for the belated payment, cannot be accepted in view of the order passed by the Hon'ble Supreme Court in ***Horticulture Experiment Station's*** case cited supra, wherein it has been held 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.”



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7.This court following the above decision, in a similar issue in WP(MD)No.20801 of 2022, by order dated 15.10.2025 has remitted the matter for fresh consideration.

8.In view above discussion, the impugned order is set aside. The matter is remanded back to the EPF Authority for fresh consideration and it is open to establishment to raise all the grounds before the EPF Authority.

9.In the result, this writ petition is allowed. No costs.

12.11.2025

Internet : Yes / No

DSK

To

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B.PUGALENDHI, J.

DSK

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