



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.03.2025

CORAM:

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

AND

THE HONOURABLE **MS.JUSTICE R.POORNIMA**

C.M.P.(MD) Nos.11015 and 11016 of 2024

in

W.A.(MD) SR.Nos.30513 and 30514 of 2023

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub Regional Office,
Bhavishyanidi Bhavan,
NGO B Colony,
Tirunelveli 627 007.

... Petitioner in both C.M.Ps.,

-Vs-

1.The Employees' Provident Funds Appellate Tribunal,
New Delhi.

2.Jeyaram Roadways,
No.106/7, Trivandrum Road,
Palayamkottai 627 002.
represented by its Proprietor,
N.Ramkumar

... Respondents in C.M.P.(MD) No.11015 of 2024

1.The Employees' Provident Funds Appellate Tribunal,
New Delhi.



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2. Jeyaram Roadways,
No.106/7, Trivandrum Road,
Palayamkottai 627 002.
represented by its Proprietor,
R.Suyambukani

... Respondents in C.M.P.(MD) No.11016 of 2024

COMMON PRAYER in C.M.P.(MD) Nos.11015 and 11016 of 2024: Petitions filed under Section 5 of the Limitation Act, to condone the delay of 189 and 566 days respectively occurred in filing the Writ Appeals.

COMMON PRAYER in W.A.(MD) SR.Nos.30513 and 30514 of 2023: Appeals filed under Clause 15 of Letters Patent, praying this Court to set aside the order passed in W.P.(MD) Nos.1268 and 1269 of 2013 dated 12.09.2022.

For Petitioner
in both C.M.Ps., : Mr.D.Sivaraman

COMMON ORDER

DR.G.JAYACHANDRAN., J
AND
R.POORNIMA.,J

The Provident Fund Authority being aggrieved by the order passed by the appellate Tribunal preferred writ petitions in W.P.(MD) Nos.1268 and 1269 of 2013, challenging the order of the appellate Tribunal dated 25.04.2012.



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2.The learned single Judge after considering the records held that the erstwhile Management of Jeyaram Roadways and Jeyaram Travels, which was unified a name as Jeyaram Transports, was contributing to EPF, since there were 22 persons employed under the establishment. However, after transfer of the Management in the name of Ramkumar and Suyambukani and splitting up of the Management into Jeyaram Travels and Jeyaram Roadways, there is no functional unitariness in the management and therefore, the order of the Tribunal, rejecting the claim of the Provident Fund Department that the Organization falls within the net of Provident Fund Act, is sustainable. In other words, the learned single Judge on perusing the records had opined that viewing from any angle, the provisions of Provident Fund Act are not applicable to the subsequent establishment and the EPF claim is not legally sustainable.

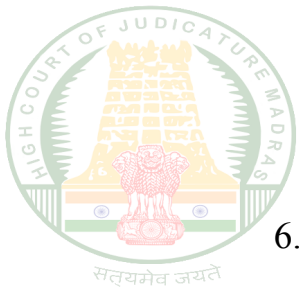
3. Being aggrieved by the order of the learned single Judge passed in those two writ petitions on 12.09.2022, the Assistant Provident Fund Commissioner has preferred *intra* Court appeals with a delay of 189 and 566 days. This Court, when the applications for condoning the delay in re-presenting the appeals, allowed the applications to discuss the merits of the case as well as the cause shown for condonation of delay to be decided in the condone delay applications.



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4. Accordingly, today, the learned counsel for the Employees Provident Fund Organization appeared and submitted that the establishment, which was under the cover of EPF earlier, was transferred and split up into two entities. However, it was managed by the husband and wife as one Unit under one roof and with the common staff. Therefore, though on paper there is a division, there was in reality functional unity.

5. In view of the judgment of the Hon'ble Supreme Court in Civil Appeal No.4188 of 2013, vide order dated 12.10.2023, the order of the learned single Judge has to be reversed, since the two institutions, by name, Jeyaram Roadways and Jeyaram Travels are one and the same institutions for all practical purposes and not separate and independent institution. Since the Hon'ble Supreme Court has categorically held that when an establishment though on record function as two separate institutions, it can be clubbed and brought under the coverage of EPF Act, if it is proved that those two institutions are in fact managed by the same Managing Committee/Team. Therefore, the learned counsel submitted that subsequent judgment of the Hon'ble Supreme Court has to be considered and hence, the delay to be condoned.



6.This Court after giving anxious consideration to the submissions and perusal of the records would find that except the relationship between the owners of the two establishment as husband and wife, for all other purposes on record, Jeyaram Roadways and Jeyaram Travels are two different entities. There is no material to show that there was financial integrity between these two entities, because they had functioned under the same roof and using the common staff, cannot be the test for functional and financial integrity. The Tribunal has gone into the records and found that they are two different entities and therefore, they will not fall within the ambit of EPF Act.

7.An attempt made by the Organization to make a roving enquiry with the Management to establish that there is a financial integrity did not fructify, since the Management while participating in the enquiry proceedings had clearly stated that they are not maintaining any records for their source of capital and the other details about the staff working in the Unit. A negative presumption want to be drawn by the EPF Organization, which is not permissible under the Act.

8.Hence, this Court finds, even on merits, that there is no reason to interfere with the order of the learned single Judge, confirming the order of the Tribunal. That apart, the reason stated for the delay in filing Writ Appeals also is



not convincing. Hence, these Writ Miscellaneous Petitions are dismissed.

Consequently, Writ Appeals stand rejected at the SR stage itself.

[G.J., J.] & [R.P., J.]

25.03.2025

NCC : Yes / No

Index : Yes / No

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DR.G.JAYACHANDRAN, J.

AND

R.POORNIMA, J.

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