BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.04.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.16684 of 2022 and
WMP(MD) No.16387 of 2023

Viswabharathi Textiles (P) Ltd.,
Rep by its Managing Director,
Vadamadurai,
Dindigul,
Dindigul District. ... Petitioner

Vs

The Recovery Officer,
Employees' Provident Fund Organization,
District Office,
No.16, A.R.S.Road,
Bava Lodge Building,
Nagal Nagar,
Dindigul – 624 003. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records from the file of the EPF Organization, Dindigul herein TN/MD/MDU/DO/DGL/Recovery/MD/20905/M-13/2022, dated 04.07.2022 under Section 7Q of the EPF Act, claiming interest and charges to the tune of Rs.25,68,794/- and to quash the same.

For Petitioner : Mr.C.Karthikeyan
For Respondent : Mr.A.John Xavier
Standing Counsel

O R D E R

The Managing Director of M/s. Viswabharathi Textiles (P) Ltd., Dindigul has filed this writ petition as against the demand notice issued by the respondent EPF authority, claiming interest, under Section 7Q the Employees Provident Fund and Miscellaneous Provisions Act, 1952, for the belated payment of EPF contribution by the petitioner Mill for the period from March 2001 to January 2003.

2.The learned counsel appearing for the petitioner Mill submits that the petitioner Mill has been closed down even in the year 2018. He further submits that admittedly, there was a belated payment of EPF contribution for the period from March 2001 to January 2003 due to financial crisis of the petitioner Mill. For the same, the EPF authority has initiated proceedings under Section 14B of the Act in the year 2005 and also levied damages of Rs.78,21,782/-, on 27.10.2005. According to the learned counsel, this damage has been levied at the rate of 37%, under para 32A of the EPF Scheme. The learned counsel further submits that the order passed on 27.10.2005 has been challenged by this petitioner Mill before the Appellate Tribunal, Chennai and the same was dismissed on 18.05.2011. Aggrieved over the same, the petitioner has filed a writ petition before this Court in WP(MD) No.7172 of 2011 and this Court, by its order, dated 25.03.2011, remanded the matter back to the authorities to reconsider the issue, on the ground of *mens rea*. Accordingly, a fresh enquiry has been conducted and an order under Section 14B of the Act was passed, on 19.05.2022, levying damages for a sum of Rs.78,21,782/-. Challenging the same, the petitioner has filed another appeal in EPFA.No.93 of 2022 and the same is still pending.

3.According to the learned counsel, the EPF Authority has reduced the maximum amount, which can be levied under the para 32A of the EPF Scheme as 25% with effect from 01.06.1990. Prior to that, the maximum penalty levied under section 14 B of the Act was 37% percentage. Therefore, there is no need to raise a separate demand of interest under Section 7Q, when the appeal against the order under Section 14B is pending before the Appellate Tribunal at Chennai.

4.On the other hand, the learned Standing Counsel appearing for the respondent EPF Authority submits that Section 7Q of the Act has been introduced in the year 1997. As per Section 7Q of the Act, every belated payment of EPF contribution has to be levied with 12% of interest. The levy of interest is mandatory, when there is a delay in payment of EPF contribution. The learned counsel further submits that this petitioner has paid the EPF contribution for the period from March 2001 to January 2003 belatedly. Therefore, the petitioner was levied with an interest of Rs.25,66,144/- under Section 7Q of the act vide order dated 27.10.2005. Pursuant to the same, the impugned demand notice has been issued to this petitioner. It is submitted that the petitioner has not challenged this order passed under Section 7Q of the Act, dated 27.10.2005. The order impugned in this writ petition is only a consequential communication, dated 06.07.2022, issued by the Recovery Officer, calling upon this petitioner to pay interest as derived under Section 7Q of the Act, for the belated payment of contribution for the period from March 2001 to January 2003. According to the learned counsel, the damages, which has been levied under Section 14B of the Act and is under challenge before the Appellate Tribunal at Chennai is a different cause of action and the order impugned in this writ petition is a separate cause of action, demanding interest for the belated payment, under Section 7Q of the Act. Moreover, the damages has been reduced to 25% by amending Para 32A only from the year 2008 onwards, and the order passed on 28.07.2005 under Section 14B is as per the Scheme, which was in existence at that time.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The petitioner Textile Mill is enrolled under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, with Registered No. MD/MDU/20905. The petitioner Mill has failed to pay the EPF contribution for the period from March 2001 to

January 2003. Therefore, this petitioner is liable to be levied with damages/interest as required under Section 14B of the Act and also as required under Section 7Q of the Act. Damages leviable under Section 14 B of the Act has been introduced in the year 1973, however, interest leviable under Section 7Q of the Act has been introduced only from 01.07.1997. The damages have been levied previously, as per para 32A of EPF Scheme and the same is extracted as under:-

Sl.No.	**Period of Default**	**Rates of Damages (% of arrears per annum)**
(a)	Less than two months	Seventeen
(b)	Two months and above but less than four months	Twenty Two
(c)	Four months and above and less than six months	Twenty Seven
(d)	Six months and above	Thirty Seven

7.Thereafter, in view of introduction of separate provision under Section 7Q of the Act, levying interest at the rate of 12% w.e.f. 01.07.1997, the Central Board of Trustees has decided to revise the rate of damages with effect from 01.06.1990 by issuing a circular dated ,29.05.1990 which is extracted as under:-

"1.Levy of damages for belated payments:-

With the amendment to the Act providing for payment of simple interest at 12% per annum (Section 7Q) payable from the date the amount has become due till the date it is actually paid, the central Board of Trustees has approved the following revised rates of damages with condition that the position with regard to the incidence of default following the revision of the rates of damages would be analysed after six months from the date the new rates come into force:-

Period of delay	**Interest chargeable under Section 7Q**	**Revised rate of damage**	**Total**
2 months or less	12	5	17
Over 2 months but less than 4 months	12	10	22
Over 4 months but less than 6 months	12	15	27
Over 6 months	12	25	37

2. The levy of damages at the above rates may be subject to the following condition:-

(a) The grace period of five days allowed for payment of the dues shall continue to apply. However, any payment made by the employer after the expiry of due date (which includes the grace period) for whatever reason including bank holiday, shall attract the damages.

(b)The Regional Provident Fund Commissioners will have to consider judicialy all the relevant facts and circumstances of each case of default and pass formal speaking order for levy of

damages, keeping in view the rates of damages specified in the Scheme. However, where it is decided to impose damages at a lower rate, detailed reasons will have to be given in the speaking order itself for imposing damages at a lower rate.

3.The revised rates are applicable in respect of all defaults arising on and after 01.06.1990. All other procedure on the subject enunciated in earlier circular letter particularly those relating to affording a reasonable opportunity to the employees being heard before final orders are passed, restricting the number of adjournments to not more than three, avoiding long adjournments, passing a reasoned speaking order and delivering the order on the date of which the hearing is concluded remain unchanged and these instructions should be scrupulously followed.

[C.P.F.C's Letter No.P.Q. Cell/3 (3) 86/Dam, dated the 29th May, 1990]"

8.The period of default in this case is from March 2001 to January 2003. As per the Circular, dated 29.05.1990, the revised rates of damages as approved by the Central Board of Trustees has been effected from 01.06.1990 itself. The petitioner mill was imposed with 37 % of damages under Section 14B of the Act by order dated 28.07.2005 and the same was challenged before the Appellate Tribunal in ATA No.29(13) of 2006, which was dismissed on 18.05.2011. Aggrieved over the same, the petitioner has filed a writ petition before this Court in WP(MD) No.7172 of 2011 and this Court, by its order, dated 25.03.2011, remanded the matter back to the authorities to reconsider the issue, on the ground of *mensrea*. Accordingly, a fresh enquiry has been conducted and an order under Section 14B of the Act was passed, on 19.05.2022, levying damages once again levying damages at the rate of 37% for a sum of Rs. 78,21,782/-. Challenging the same, the petitioner has filed another appeal in EPFA.No.93 of 2022 and the same is still pending before the Appellate Tribunal.

9.A perusal of the circular dated 29.05.1990 reveals that the maximum rate of damages has been reduced from 37% to 25% and the interest leviable under Section 7Q has been fixed at 12%. Para 32 of the EPF scheme was also amended with effect from 26.09.2008 and the maximum damages have been reduced to 25%. In the present case, the petitioner mill has already been levied with 37% damages by order dated 19.05.2022. Therefore, the damages of Rs.78,21,782/- is inclusive of the 12% rate of interest. Since the Central Board of Trustees has taken a policy decision, in view of the introduction of provision under Section 7Q of the Act, to reduce the rate of damages from 37% to 25%, this Court is of the view that a separate demand under Section 7Q for the belated payment of EPF contribution for the period from March 2001 to January 2003 is not sustainable, when they have already levied damages of 37% in the order passed under Section 14 B of the Act.

10.In view of the above, this writ petition is allowed and the impugned demand notice is set aside. No costs. Consequently, connected Miscellaneous Petition is closed. The parties shall workout their remedy in the appeal, which is pending before the Appellate Tribunal in EPFA.No.93 of 2022. The Appellate Tribunal shall conclude the above appeal as expeditiously as possible.

06.04.2026

NCC: Yes/No
Index:Yes/No
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To

The Recovery Officer,
Employees' Provident Fund Organization,
District Office,
No.16, A.R.S.Road,
Bava Lodge Building,
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B.PUGALENDHI, J.

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Order made in
W.P(MD)No.16684 of 2022 and
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