BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.19513 of 2019 and
WMP(MD) Nos.15960 & 21862 of 2019

M/s. Vasan Medical Hall,
Rep by its Manager,
V.Subramanian,
No.15A, Main Road, 1st Cross,
Thillai Nagar,
Trichy – 620 005. ... Petitioner

Vs

The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
Post Box.No.588, Sree Complex,
D Block, 18 Madurai Road,
Trichy. ...Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, calling for the records pertaining to the impugned order dt. 02.08.2019 in EPFA.No.650 of 2018 passed by the Presiding Officer, Central Government Industrial Tribunal (Employees Provident Fund Appellate Tribunal), Chennai to quash the condition imposed on the petitioner directing to deposit 50 percent of due determined by the respondent while granting stay of order challenged in the appeal.

For Petitioner : Mr.R.Narayanan,
For Respondent : Mr.I.Pinaygash

ORDER

The petitioner, a retailer in Medicals, running more than 50 medical shops across the State is registered under the Companies Act, 1956. Therefore, the petitioner's Company comes under the purview of Employees Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter called Act) and they have paid EPF contribution until 2013. Thereafter, they have failed to remit EPF contribution, due to financial crisis and also there was some delay in payment of EPF contribution for the subsequent years. Therefore, the respondent EPF authority has initiated proceedings under Section 14B of the Act, levying damages on the petitioner, to the tune of Rs.16,68,037/-, by an order, dated 04.07.2018. The order of EPF authority has been challenged by the petitioner, before the EPF Tribunal in EPFA No.650 of 2018, under Section 7(I) of the Act.

Along with the appeal, the petitioner has also moved an application seeking interim stay. The Tribunal, while entertaining the appeal filed by the writ petitioner has granted an order of interim stay on conditional deposit of 50% of the dues determined by the respondent, by its order, dated 02.08.2019. Challenging the said conditional order, this writ petition was filed by the petitioner in the year 2019 that the Appellate Tribunal has entertained the appeal by imposing a precondition order of deposit.

2.Today(01.09.2025), when this writ petition is taken up for hearing, the learned counsel appearing for the respondent EPF Authority submits that this issue has already been decided by this Court in WP(MD) No.19220 of 2023, dated 18.10.2024 that the conditional order passed by the Appellate Tribunal to deposit some portion of the dues determined by the EPF Authority is a condition for grant of interim stay alone and it cannot be treated as a precondition for entertaining the appeal. The relevant paragraphs from the above order is extracted as under:-

''9.In fact this Court has set aside a similar conditional order by following the decision of the Hon'ble Supreme Curt in Shiv Herbal Research Laboratory Vs the Assistant P.F. Commissioner. The case in Shiv Herbal Research Laboratory vs the Assistant P.F. Commissioner, before the Hon'ble Supreme Court, is an appeal preferred as against similar conditional order passed by the Bombay High Court in an appeal, which was filed as against the order passed under Section 14-B of the Act. The Bombay High Court while entertaining the appeal, had directed the petitioner therein to deposit a sum of 50% of the damages imposed under Section 14-B of the Act. The Hon'ble Supreme Court while entertaining the civil appeal has passed an interim order directing the appellant therein to deposit a sum of 25%, instead of 50% as directed the appellate tribunal and the High Court. Later the same was confirmed by the Hon'ble Supreme Court that the petitioner therein has to deposit a sum of 25% of the damages imposed on them. The relevant portion of the orders of the Hon'ble Supreme Court is extracted as under:

> *"3. Apart from the above, the provision for preferring an appeal in respect of an order Under Section 14B is contained in Section 7-I of the above Act which provides for appeals to the Tribunal, inter alia against orders passed Under Section 14-B . Subsection (2) of Section 7-I indicates that every appeal Under Sub-section (1) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be*

prescribed. There is nothing to indicate that any part of the amount awarded Under Section 14B was required to be deposited at the time of filing of the appeal.

4. When specific provision has been made with regard to appeals Under Section 7A and Under Section 7-O , a definite provision has been indicated for deposit of 75% of the awarded amount and there is no such provision in Section 7-I , we cannot read the principles of Section 7-O into the provisions of Section 7-I in relation to appeals Under Section 14B of the above Act.

5.The decisions cited by learned Counsel appearing for the Respondent are not of any help to the case of the Respondent, Assistant Provident Fund Commissioner in the context of this case. We, therefore, allow the appeal and confirm our order dated 7th July, 2008. We are informed that the said amount of 25% has been duly deposited in the Tribunal. As directed in our order of 7th July, 2008, the amount deposited is to be kept in a short term fixed deposit, which is to be renewed until the disposal of the pending appeal. The said order shall continue till the disposal of the appeal by the Tribunal."

10.The High Court of Madhya Pradesh has also dealt with a similar issue in Center for Entrepreneurship Development through its Secretary Johon Eppon Vs Regional Provident Commissioner reported in 2024 SCC OnLine MP 2528 and by following above of *the decision of the Hon'ble Supreme Court it has held as under:*

> *"11. Section 7(O) of the Act, 1952 is a different provision, which provides that if the appeal is preferred against the order passed under Section 7(A), then the Tribunal shall not entertain the appeal unless the employer has deposited 75% of the amount due. That is a precondition for entertaining the appeal, whereas in the present matter no such condition was imposed by impugned order passed by CGIT and therefore, the argument advanced by the learned counsel for petitioner are misconceived and not acceptable. Section 7(O) of the Act, 1952 puts an embargo for entertainment of the appeal by the Tribunal and requires deposition of 75% as pre-condition, if the appeal is preferred against the order passed under Section 7(A) of the Act, 1952. However, in the present matter, the Tribunal has passed the order as a condition for staying the order of recovery and therefore, the same cannot be assailed on the ground that under Section 7(O) of the Act, 1952 no condition can be imposed in respect of the order under challenge was passed in Section 14(B) of the Act, 1952. The judgment passed by the Madras High Court is not helpful to the petitioner and the judgment delivered by Delhi High Court is directly applicable to the present case. However, Apex Court in the matter of Shiv Herbal Res. Laboratory (supra) and Division Bench of this Court in the matter of Nav Bharat Press, Bhopal (supra), after considering the fact that orders under challenge were passed for staying the recovery under Section 14(B) of the*

Act, 1952, reduced the amount to be deposited for grant of stay. The Division Bench in the matter of Nav Bharat Press (supra) has held that the Tribunal has discretion to impose such a condition for staying the recovery proceedings and looking to the poor financial condition of the appellant therein, the pre-condition of depositing 35% of amount was reduced to Rs. 10.00 lakh.

12.In view of above discussion, the question is answered as that though the provision of Section 7(O) of the Act, 1952 are not applicable to an appeal preferred challenging the order passed under Section 14(B) of the Act, 1952 and no precondition can be imposed upon the appellant to deposit any amount for entertaining the appeal, but the Tribunal is having discretion to stay the recovery initiated by the Commissioner upon any condition as it deem fit including the condition of depositing a part of the amount and the same is permissible."

11.A Division Bench of High Court of Delhi in Jai Balaji Security Services (Regd.) Vs A.P.F.C. Delhi (North) reported in (2015 SCC OnLine Del 14099) has held as under :

"16. But that would not mean that if an aggrieved person, who has challenged an order under Section 7-Q and/or Section 14-B of the Act moves an application before the Appellate Tribunal seeking stay of the demand raised, the

Appellate Tribunal would not be empowered to pass a conditional order of stay. Whereas Section 7-I of the Act creates the forum of appeal, Section 7-O puts an embargo on the entertainment of the appeal by the Appellate Tribunal by requiring 75% of the amount due as determined under Section 7-A to be deposited; with a power vested in the Appellate Tribunal to waive or reduce the amount to be deposited. Thus, whereas an appeal has to be entertained without insisting on any pre-deposit concerning orders passed under Section 7- Q and Section 14-B of the Act, but the pendency of the appeal would not prohibit the Competent Authority to effect the recovery unless the Appellate Tribunal passes an interim order concerning the demand. This would simply mean that the Appellate Tribunal can pass conditional orders."

12.Therefore this Court is of the view that the order passed by the appellate tribunal is only a conditional order for grant of stay of the order passed under Section 14-B of the Act. Therefore, this Court is not inclined to interfere with the orders of the appellate tribunal and accordingly, this writ petition is dismissed.

13.The appellate tribunal is directed to conclude the appeal proceedings within a period of three months from the date of receipt of a copy of this order. The appellate tribunal has permitted the petitioner to pay the amount within a period of two months, ie., on or before 08.08.2023, for the stay. If the petitioner is inclined to avail *the benefit of stay, it is open to the petitioner to pay the amount as directed by the appellate tribunal, in three equal monthly installments commencing from today ''.*

3.In view of the above order passed by this Court in WP(MD) No.19220 of 2023, dated 18.10.2024, this Court is not inclined to entertain this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

01.09.2025

NCC : Yes / No.
Index : Yes / No.
Internet : Yes.
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To

The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
Post Box.No.588, Sree Complex,
D Block, 18 Madurai Road,
Trichy.

B.PUGALENDHI, J.

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