



W.P.(MD).No.6900 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.6900 of 2018

and

W.M.P(MD) No.6628 of 2018

Tuticorin Alkali Chemicals and Fertilizers Limited,
Harbour Construction Road,
Muthiapuram, Tuticorin – 628 005,
Represented by its Company Secretary.

... Petitioner

Vs.

The Regional Provident Fund Commissioner -1,
Employees Provident Fund Organisation,
Bhavishya Nidhi Bhavan,
NGO B Colony,
Tirunelveli – 627 008.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in proceeding No.MD/TNY/20106/7Q/PDC(2)/2018 quash the order dated 12.01.2018, levying interest of Rs.23,10,305/- and direct the respondent to refund the sum of Rs.20,00,000/- that has been recovered, pursuant to the impugned order.

For Petitioner : Mr.Anand Gopalan
For M/s.T.S.Gopalan and Co



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For Respondent : Mr.I.Robert Chandrakumar

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ORDER

The present Writ Petition has been filed by the Management challenging the order passed under Section 7Q of the Employees' Provident Funds and Miscellaneous Provisions Act.

2. The petitioner Management was granted exemption from the purview of the Employees' Provident Funds and Miscellaneous Provisions Act. The Management has written a letter to the Employees Provident Fund Organization that they no longer require exemption and they would like to surrender the same. Accepting the same, an order came to be passed by the Employees Provident Fund Commissioner on 02.06.2014. Thereafter, the petitioner Management was permitted to encash the securities and the amount was deposited to the credit of the Employee's Provident Fund Organization. The present impugned order has been passed by the respondent Organization demanding interest, on the ground that there was a delay in remitting the amount after encashment of securities. Challenging the same, the present Writ Petition has been filed.



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3. According to the learned counsel appearing for the petitioner, the delay cannot be calculated from the date on which permission was granted for surrendering i.e., from 02.06.2014. In fact, after granting permission for surrendering the exemption, an audit was conducted by the Employees Provident Fund Organization and thereafter, the petitioner Management was permitted to encash the securities. In such circumstances, the delay can be calculated only from the date on which the audit was completed and permission was granted for encashment of securities.

4. Per contra, the learned counsel appearing for the respondent submits that the delay has to be calculated from the date on which the exemption was surrendered i.e., on 02.06.2014.

5. However, this Court is not inclined to accept the said contention in view of the fact that unless auditing is completed and specific permission granted to the Management, the Management cannot encash the securities. Therefore, there is a dispute with regard to the fact that on what date the auditing was completed and the permission was actually granted with regard to the sale of securities. In view of the factual dispute, this Court is not



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inclined to enter into the merits of the order passed under Section 7Q of the Employees Provident Funds and Miscellaneous Provisions Act. These aspects have to be decided by the authorities concerned.

6. In view of the above said deliberations, the order impugned in the Writ Petition is set aside and the matter is remitted back to the file of the respondent. The petitioner is at liberty to place on record all the documents relating to the date on which auditing was completed and permission was granted by the authorities for encashment. In case, if any document is not available with the petitioner Management, the same shall be provided by the respondent.

7. With the above said observation, this Writ Petition stands allowed. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

26.08.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
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R.VIJAYAKUMAR,J.

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