



W.A(MD) Nos.1089 of 2018 & 32 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.09.2025

CORAM:

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.A.(MD)No.1089 of 2018 & 32 of 2019
and C.M.P(MD)Nos.7801 of 2018 & 9056 of 2024**

W.A.(MD)No.1089 of 2018

Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
N.G.O.B. Colony,
Tirunelveli.

... Appellant

-VS-

1. M/s.Seyadu Beedi Company,
Salai Street,
Sindupoondurai,
Tirunelveli Junction,
Tirunelveli 627 001.

2. Presiding Officer,
E.P.F. Appellate Tribunal,
New Delhi.

... Respondents

PRAYER: Writ Appeal filed under Section 15 of Letters Patent against the order dated 23.06.2017 passed by this Court in W.P.(MD)No.3822 of 2009.



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For Appellant : Mr.A.Sivasubramanian

For Respondents : Mr.C.Karthikeyan
for Mr.S.Jeyaraman for R1
No Appearance for R2

W.A.(MD)No.32 of 2019

District Beedi Workers' Union,
Rep by its President,
6-A-1, Parasakthi Building,
Madurai Road, Tirunelveli 627 001.

... Appellant

-VS-

1. The Presiding Officer,
E.P.F.Appellate Tribunal,
New Delhi.

2. M/s.Seyadu Beedi Company,
Salai Street, Sindupondurai,
Tirunelveli Junction,
Tirunelveli 627 001.

3. The Regional Provident Fund Commissioner,
N.G.O.B. Colony, Tirunelveli.

... Respondents

PRAYER: Writ Appeal filed under Section 15 of Letters Patent against the order dated 23.06.2017 passed by this Court in W.P.(MD)No.11733 of 2010.

For Appellant : Mr.S.Arunachalam

For Respondents : Mr.C.Karthikeyan
for Mr.S.Jeyaraman for R2
No Appearance for R1
Mr.A.Sivasubramanian for R3



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COMMON JUDGMENT

(Judgment of the Court was delivered by ***R.Vijayakumar, J.***)

Both these Writ Appeals have been filed by the Petitioners in W.P. (MD)Nos.3822 of 2009 and 11733 of 2010, wherein the Writ Court had dismissed these Writ Petitions, which were filed challenging the order of the Employees Provident Fund Appellate Tribunal in A.T.A.No. 680(13)2003.

2. It is not in dispute that M/s.Seyadu Beedi Company is covered under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (in short "the EPF Act, 1952"). The said Beedi Company was procuring unbranded beedies from one M/s.Rajan Traders and after converting into their own brand, they were selling it. A dispute arose whether the employees of the independent manufacturers of beedies viz., M/s.Rajan Traders could be considered as employees of M/s.Seyadu Beedi Company and in turn whether M/s.Seyadu Beedi Company have to remit contribution for those employees also.

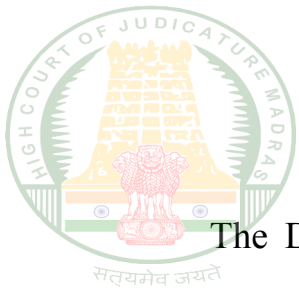


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3. This dispute was placed before the Regional Provident Fund Commissioner, Tirunelveli under para 26-B of the Employees' Provident Funds Scheme, 1952 (in short “ the EPF Scheme, 1952) r/w Section 7 A of the EPF Act, 1952. After hearing both the parties, he passed an order on 01.07.2003 to the effect that the the self-employed beedi manufacturers, who ultimately supplied the beedies to M/s.Seyadu Beedi Company through M/s.Rajan Traders or similar traders are employees of M/s.Seyadu Beedi Company and they are liable to be enrolled as P.F. members. The order of the original authority was put to challenge before the Appellate Tribunal, New Delhi in A.T.A.No.680(13)2003. The appellate Tribunal, after hearing both the parties, has passed an order on 25.03.2009 to the effect that the employees of M/s.Rajan Traders are independent of that organization and they cannot be construed as employees of M/s.Seyadu Beedi Company. The appellate Tribunal proceeded to set aside the order passed by the Original Authority under para 26(B) of EPF Scheme, 1952.

4. This order of the appellate Tribunal was put to challenge by the Regional Provident Fund Commissioner in W.P.(MD)No.3822 of 2009.

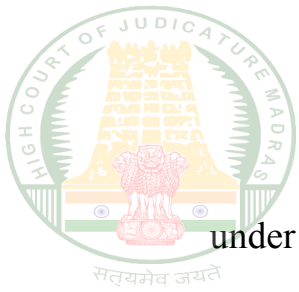


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The District Beedi Workers' Union also challenged the same order in W.P.(MD)No.11733 of 2010. The Writ Court by way of a common order dated 23.06.2017, had dismissed both the Writ Petitions confirming the order passed by the appellate Tribunal. Challenging the order passed in both these Writ Petitions, the present Writ Appeals have been filed by the respective Writ Petitioners.

5. According to the learned counsel appearing for the appellants, any order passed under para 26-B of EPF Scheme, 1952 is final, as per the unamended provision. Therefore, when an appeal was preferred before the appellate Tribunal in the year 2004, the appellate Tribunal did not have any jurisdiction to entertain such an appeal from the employer. Though such a submission was made before the Writ Court, the same has not been considered. When the appeal preferred before the appellate Tribunal is not maintainable, the order of the Appellate Tribunal ought not to have been confirmed by the writ Court.

6. Per contra, the learned counsel appearing for the respondent/employer submitted that with effect from 07.05.2014 para 26-B of the EPF Scheme, 1952 has been amended and any order passed



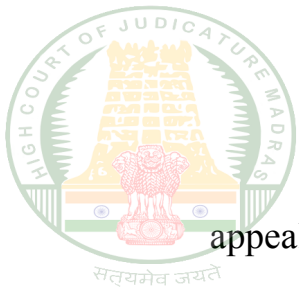
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under para 26-B of the EPF Scheme, 1952 has become an appealable order. Therefore, the order passed by the appellate Tribunal should be considered as to have been passed, having exercising its jurisdiction in a proper manner. He further submitted that employees of an independent agency cannot be considered as employees of M/s.Seyadu Beedi Company. Therefore, the appellate Tribunal, after considering the factual situation has rightly arrived at a finding that employees of an independent establishment cannot be considered to be employees of M/s.Seyadu Beedi Company.

7. We have considered the submissions made on either side and perused the materials available on record.

8. The issue that now arises for consideration is that whether the appellate Tribunal had any jurisdiction to entertain an appeal as against an order passed under para 26-B of the EPF Scheme, 1952, when the appeal was preferred in the year 2004 or not.

9. A perusal of unamended para 26-B reveals that any order passed by the original authority under para 26-B shall be final and no further



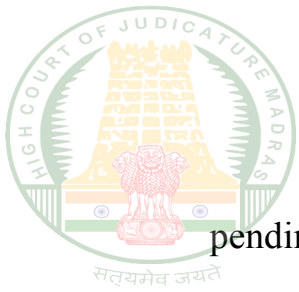
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appeal was provided either under the Scheme or under the Act.

Therefore, when an appeal was preferred by the employer as against the order of the original authority dated 01.07.2003, the appellate Tribunal did not have any jurisdiction. Therefore, we have to arrive at a conclusion that the order of the appellate Tribunal dated 25.03.2009 is clearly without any jurisdiction. This aspect has not been taken into consideration by the writ Court.

10. When the order of the appellate Tribunal is without jurisdiction, merely because the order passed under 26-B has become an appealable order after 07.05.2014, the parties cannot be relegated to the appellate Tribunal now. We have to consider the position of law as on the date when the appeal was entertained by the Tribunal and orders were passed by the Tribunal. On both these dates, the Tribunal did not have any jurisdiction either to entertain an appeal or to pass orders. Therefore, we are of the considered opinion that the parties cannot be relegated to the appellate Tribunal to file a fresh appeal.

11. Considering the fact that erroneously an appeal came to be filed by the employer before the appellate Tribunal and it has been



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pending before the appellate Tribunal as well as before this Court for so

many years, we are inclined to pass the following order:

(a) The order of the Writ Court is set aside and the
Writ Appeals stand allowed; and

(b) the respondent-employer is at liberty to prefer
a Writ Petition, if he is so advised, challenging the order
dated 01.07.2003 passed by the original authority under
para 26(B) of the EPF Scheme 1952.

There shall be no order as to costs. Consequently, connected
miscellaneous petitions are closed.

[C.V.K., J.] [R.V., J.]

11.09.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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C.V.KARTHIKEYAN, J.
and
R.VIJAYAKUMAR, J.

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