BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.33710 of 2025 and
WMP(MD)Nos.26613 and 26614 of 2025

The Commissioner,
Nagapattinam Municipality,
Nagapattinam,
Nagapattinam District. ...Petitioner

Vs

The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
[Ministry of Labour and Employment, Government of India,]
Regional Office,
PB.No.588, Shree Complex,
D Block No.18,Madurai Road,
Tiruchirappalli – 620 008. ...Respondent

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India to issue a writ of certiorari to call for the records of the impugned order No.Enf-D3/RO-TRY/81720/7A order/2024-25, dated 24.10.2024 issued by the respondent and order in appeal passed by the Central Government Industrial Tribunal cum Labour Court, Chennai (CGIT cum LC) in EPFA No.104 of 2025, dated 17.07.2025 and quash the same as illegal.

For Petitioner : Mr.M.Kannan
For Respondent : Mr.I.Pinaygash

ORDER

The petitioner municipality has filed this writ petition as against the order passed by the respondent under Section 7A of the Employees' Provident and Miscellaneous Provisions Act [in short the EPF Act] dated 24.10.2024 and the orders of the EPF appellate tribunal dated 17.07.2025.

2.The petitioner municipality is a government organisation and they are covered under the Employees Pension Scheme. However, in view of the decision taken on the workers, who have been engaged by the contractors for execution of works in the municipality, liability has been fastened on the municipality. The EPF authority has initiated proceedings and also fixed the liability as against this petitioner under Section 7A of the EPF Act on 24.10.2024 and fixed the liability as Rs.2,02,64,610/-

3.Aggrieved by that order the petitioner management has preferred statutory appeal before the EPF appellate tribunal under Section 7I of the

EPF Act. However the appeal was filed with a delay of 166 days. Therefore, by referring to Rule 7(2) of the EPF Appellate Tribunal (Procedure) Rules, 1997, (in short Rules) the appellate tribunal has rejected the appeal on the ground of limitation. Hence the petitioner has filed this writ petition challenging the order passed by the EPF appellate tribunal in EPFA No.104 of 2025, dated 17.07.2025 and also the order of the EPF Authority dated 24.10.2024.

4.The learned counsel for the petitioner submits that due to various other works entrusted to the petitioner municipality, they have failed to follow up with the order dated 24.10.2024 and failed to file appeal within time stipulated under the statute. It is only 166 days delay in filing the appeal, however, the appellate tribunal by referring to Rule 7(2) of the Rules has rejected the appeal.

5.The learned counsel by referring to the orders of the Hon'ble Apex Court in ***Assistant Commissioner (CT) LTU, Kakinada and others Vs.Glaxo Smith Kline Consumer Health Care Limited [2020] 19 SCC 681*** submits that the Hon'ble Apex Court has held that in certain circumstances, the court in exercise of its power under Article 226 and 227 of the Constitution of India, can relax the statutory period prescribed under the Rules. Similar orders have also been passed by this court. Therefore, the learned counsel seeks interference of this court in the orders passed by the EPF appellate tribunal dated 24.10.2024 and requested for adjudication before the appellate tribunal on the merits of the claim made by the EPF authority.

6.The learned counsel also submits that a huge amount has been assessed by the EPF authority for the works which have been executed in municipality in between the years 2011 and 2020. The employees were engaged only through the contractors and the employees themselves cannot be identified at this stage.

7.Mr.I.Pinaygash, learned counsel who takes notice for the respondent submits that the petitioner municipality is liable to pay huge amount. The appellate authority cannot entertain the appeal after the statutory period. The learned counsel has also relied on the judgment referred to by the petitioner and submits that Hon'ble Supreme Court has stated that this court is not supposed to waive the statutory period, which has been prescribed in the statute. The learned counsel has also referred to the judgment of the Division Bench of this court in WA.No.1077 of 2020, dated 07.10.2021 following the orders of the Hon'ble Supreme Court in ***Assistant Commissioner (CT) LTU, Kakinada and others Vs.Glaxo Smith Kline Consumer Health Care Limited [2020] 19 SCC 681.***

8.This court has considered the rival submissions made and perused the materials placed on record.

9.In view of the above said judgment of the Hon'ble Supreme Court and the orders of the Division Bench of this court, this court is not inclined interfere with the orders of the EPF appellate tribunal dated 17.07.2025. The petitioner has also challenged the order passed under Section 7A of the EPF Act and at the same time, this court is not inclined interfere with the contribution derived by the EPF authority under Section 7A of the EPF Act. The petitioner has not made out any case that this contribution under Section 7A of the EPF Act has been derived without providing any opportunity to the petitioner. Therefore, this court is not inclined to entertain this writ petition.

10.When this court is about to dismiss the writ petition, the learned counsel for the petitioner as an alternate remedy seeks permission to pay the dues in installments that the amount is huge and also consequence to the order passed under Section 7A of the EPF Act, an order under Section 8F of the EPF Act has also been passed. Subsequently his bank account has been attached and a sum of Rs.73 lakh has already been deducted from the bank account towards the liability under Section 7A of the EPF Act.

11.Considering the alternate relief prayed for, the opportunity lost by the petitioner in not invoking the appeal remedy in time, the liability is fixed on the petitioner for the works executed through contractors from the year 2010 to 2020 and also considering the contribution is huge, this court is inclined grant alternate relief as prayed for by the petitioner.

12.Accordingly, the writ petition is disposed of as follows:

(i) According to the EPF authority, the total dues to be paid by the petitioner is Rs.2,02,64,610/-. The petitioner claims that a sum of Rs.73,00,000/- has already been deducted from their bank account. Therefore, the petitioner shall pay balance amount in 36 equal monthly installments commencing from December 2025.

(ii)The EPF authority is directed to defreeze the bank account of the petitioner, enabling the petitioner to pay the dues as above.

(iii) In view of the above directions, the EPF authority shall not take any coercive step as against the petitioner for a period of 36 months and if the petitioner fails to utilise this opportunity provided by this court, it is left open to the EPF organisation to proceed further as against the petitioner.

(iv) It is made clear that it is for the respondent EPF authority to identify the employees, who have been engaged through the contractors and ensure that the amount reaches them. No costs. Consequently connected miscellaneous petitions are closed.

28.11.2025

DSK

To

1.The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
[Ministry of Labour and Employment, Government of India,]
Regional Office,
PB.No.588, Shree Complex,
D Block No.18, Madurai Road,
Tiruchirappalli – 620 008.

2.The Presiding Officer,
The Central Government Industrial Tribunal
cum Labour Court,
Chennai.

B.PUGALENDHI.J.,

DSK

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