

W.A.(MD) No. 185 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 17.02.2026

CORAM:

THE HONOURABLE **DR.JUSTICE G. JAYACHANDRAN**
AND
THE HONOURABLE **MR.JUSTICE K.K. RAMAKRISHNAN**

W.A.(MD) No. 185 of 2026

Regional Provident Fund Commissioner
Employees Provident Fund Organization
Sub-regional office
BhavishyaNidhi Bhavan
NGO 'B' Colony
Tirunelveli - 627 007.

...Appellant/Petitioner

Vs

1. The Presiding Officer,
The Employees Provident Funds Appellant Tribunal,
New Delhi.

2. The Sibafloor Natural Decorations Private Limited,
(Formally Known as M/s.W.Hogewoning Dried Flowers
Industries Pvt., Ltd.,)
2/101-2/108,
Ettayapuram Road,
A.Kumarapuram,
Melamaruthur, Kurukuchalai,
Tuticorin - 628 722.
rep. by its Director.

... Respondents/Respondents

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent, to set



W.A.(MD) No. 185 of 2026

aside the order passed in W.P.(MD) No.9911 of 2012 dated 12.10.2022
by this Court.

For Petitioner : Mr.T.Aswin Raja Simman
For R1 : Presiding Officer
For R2 : Mr.K.Hemakarthiskeyan

ORDER

(Order of the Court was made by **DR.G.JAYACHANDRAN, J.**)

The Commissioner of Regional Provident Fund is the appellant herein. Being aggrieved by the order passed by the learned Single Judge in W.P.(MD) No.9911 of 2012 dated 12.10.2022, the present intra-court appeal is filed with a substantial delay of 356 days. This Court, when the application for condoning the delay came up for consideration, allowed the application for condoning the delay *vide* order dated 06.02.2026 taking note of the fact that the dispute involved in the matter relates to imposing damages for belated payment of contribution under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, (hereinafter referred to as 'the Act'), which requires legal scrutiny in view of the diverging views.



W.A.(MD) No. 185 of 2026

WEB COPY

2. The learned counsel appearing for the appellant submitted that the levy of penalty under Section 14B of the Act, on account of the belated payment of provident fund contribution, was the subject matter of the writ petitions filed by various organizations at various point of time and therefore, the issue was referred to the Hon'ble Full Bench of this Court for consideration. The Three Judges Bench of this Court in W.P. (MD) No.7339 of 2013, etc., *vide* order dated 03.06.2024 has formulated the guidelines for imposing damages for belated payment and also interest on the damages ascertained.

3. Referring to the guidelines framed by the Hon'ble Full Bench of this Court, the learned counsel for the appellant insisted that if at all there are any mitigating circumstances to waive or move off the interest portion, it has to be done only by the process contemplated in the judgment. The Authority has to test whether there are any real mitigating circumstances while exercising power under Section 14B of the Act and pass orders assigning reasons for assessing quantum of damages and while passing orders, the present conduct of the employer should be taken note of.



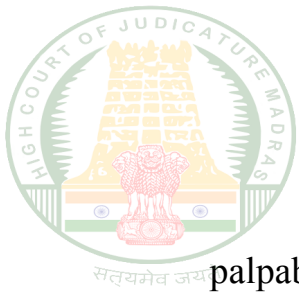
W.A.(MD) No. 185 of 2026

WEB COPY

4. The learned counsel, particularly, submitted that if the employer is a chronic defaulter despite having surplus funds and is found to have diverted the funds, there shall be no concession on imposing damages or interest on the damages.

5. The learned counsel appearing for the second respondent/Institution submitted that the order impugned in the writ appeal was passed before the dictum laid by the Hon'ble Full Bench. However, the principle laid in the Full Bench judgment has been adopted and followed by the learned Single Judge in spirit and incidentally, the learned Single Judge also forms part of the Full Bench.

6. The learned counsel further submitted that the dispute regarding the levy of damages and interest arose when the proceedings of the Commissioner of Provident Fund were initiated on 03.02.2012. The writ petition was disposed of with direction that the second respondent/Institution shall pay 10% of the damages for the said period of belated payment. Due to the financial constraint, the second respondent/Institute has already been bound up and it is not in existence as on date. Therefore, mitigating circumstances have already been



W.A.(MD) No. 185 of 2026

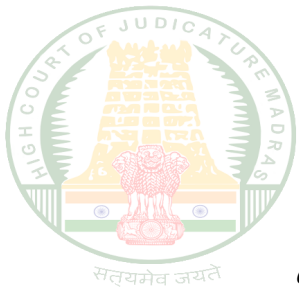
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palpably established through the facts stated above, as there is no necessity to revisit the order passed by the learned Single Judge.

7. We gave our anxious consideration to the rival submissions.

8. The second respondent/Institution has admittedly failed in remitting the provident fund contribution in time for a period starting from April 2002 to February 2009. Hence, proceedings were initiated under Section 14B of the Act. The Tribunal, which has considered the appeal preferred by the institute challenging the order dated 12.03.2009 in respect of the levy of damages, has passed the following order:

"10. A perusal of the impugned order indicates that the Officer conducting enquiry under Section 148 of the Act has not followed the law in its correct perspective. There is no enquiry or finding of fact that that the appellant has willfully and deliberately withheld the PF contribution and also the Enquiry Officer has not exercise its discretion vis-à-vis the delays in remittance of PF dues. Accordingly, the impugned suffers from legal infirmities. However, keeping in view the reasons and circumstances in which the default in remittance of PF dues occurred, ends of justice be met by restricting the damages up to 10% per annum on the arrears of the contribution. In terms of the



W.A.(MD) No. 185 of 2026

WEB COPY

above, the appeal is disposed of. The file be consigned to the record room copy of the order be sent to the parties."

9. This order was challenged by the Commissioner of Regional Provident Fund in W.P.(MD) No.9911 of 2012, wherein the learned Single Judge *vide* order dated 12.10.2022 had confirmed the order of the Tribunal and taking into consideration the fact that non-payment of the contribution was not willful and there are mitigating circumstances to levy only 10% damages for a period of belated payment. Since the learned Single Judge has assigned reason regarding mitigating circumstances in the impugned order, we find no reason to interfere with the order of the learned Single Judge, who has confirmed the order of the Tribunal.

10. The learned counsel appearing for the second respondent/Institute submitted that at the time of preferring appeal before the Tribunal, in compliance with the order passed by this Court in W.P. (MD) No.9911 of 2012, dated 12.10.2022, the institution had already deposited 50% of amount and ready to pay the balance amount as per the order of the learned Single Judge within a reasonable time.



W.A.(MD) No. 185 of 2026

WEB COPY

11. Recording the said submissions, the Writ Appeal stands disposed of confirming the order of the learned Single Judge with a direction that the appellant and the second respondent shall calculate the amount due and payable and the account has to be settled preferably within a period of **twelve (12) weeks from today (17.02.2026)**. No costs.

[G.J., J.] & [K.K.R.K., J.]
17.02.2026

Index :Yes/No
Internet :Yes
apd

To

1. The Presiding Officer,
The Employees Provident Funds Appellant Tribunal,
New Delhi.

2.The Director

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W.A.(MD) No. 185 of 2026

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W.A.(MD) No. 185 of 2026

17.02.2026