IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 14863 of 2026

Padam Mercantiles Private Limited & Anr.

Vs.

Regional Provident Fund Commissioner-I, Regional Office Barrackpore & Ors.

For the Petitioners	:	Mr. Soumya Majumder, Ld. Sr. Adv. Ms. Sanjukta Dutta, Mr. Binay Kumar Jain, Mr. Piyush Jain.
For the P.F. Authorities	:	Mr. Shiv Chandra Prasad.
Judgement reserved on	:	09.07.2026
Judgment delivered on	:	14.07.2026

Shampa Dutt (Paul), J.:

1. The writ application has been preferred challenging the order/communication dated 2nd July, 2021 and 9th July, 2021 passed by the respondent provident fund authorities being no. 1 & 2.

2. It is the case of the petitioners herein that on 15th May, 2009, the petitioners' company had entered into conversion agreement with Jankalyan Vinimay Private Limited allowing Jankalyan Vinimay Private

Limited using the infrastructure of the jute mill. Since thereafter, Jankalyan Vinimay Private Limited is operating the jute mill.

3. That prior to year 1988, the jute mill popularly known as 'Megna Jute Mills' was owned by some other entity who transferred the assets of Ganjanand Commercial Private Limited in the year 1988 and thereafter it was acquired by Ganjanand Commercial Private Limited in the year 1988.

4. The petitioner became the owner of jute mill, which is popularly known as 'Megna Jute Mills Ltd.'. The establishment was exempted under Section 17(1) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; and therefore the EPF Scheme 1952 was not applicable to the establishment. The successive operators had continued to enjoy such exemption conditions as well.

5. It was when Gajanand Commercial Private Limited was running the mill, the Provident Fund authorities had initiated recovery proceeding for an amount of Rs.6,25,27,832/- for the period from 04/1985 to 10/1997).

6. There were writ petitions filed by trade unions and appeals arising therefrom in relation to the claim made against Gajanand Commercial Private Limited. Orders were passed by the Hon'ble High Court on 25th September, 2002 and 16th August, 2005 as regards restriction on the demand made by the Provident Fund authorities and mode of payment. **The Hon'ble Division Bench had laid down a modality for liquidation of the dues till entire certificate dues as mentioned in the order would be recovered.**

7. The petitioner company states that the said impugned demand notice dated 2nd July, 2021 and 9th July 2021 had been issued in spite of a communication dated May 06, 2013 made by the Recovery officer to the effect that a sum of Rs.6300/- only was required to be paid towards certificate dues in terms of the Hon'ble High Court order.

8. Vide the said letter dated May 06, 2013, it was stated:-

> *"With reference to the above, it is to inform that the entire certificate dues in terms of High Court order dated 16-8-2005 has already been liquidated. So the establishment is required to pay Rs.6,300.00 as Cost against certificate proceedings payable in A/c No. II.*
>
> *Therefore, you are required to pay the above amount immediately and produce the barik receipted copy of challan to the undersigned positively in order to drop the certificate proceedings as well as to avoid further course of recovery action.*
>
> ***Yours faithfully.***
> ***Sd/-***
> ***RECOVERY OFFICER***
> ***SUB-REGIONAL OFFICE, BARRACKPORE"***

9. The Provident Fund authorities, however, initiated proceeding inter-alia against your petitioner for recovery of interest (7Q) and damages (14B) for alleged belated remittance of payment from 1993 to 2013. This proceeding resulted in an order dated 26th February, 2015 to be passed for an amount of Rs.1,80,00,000/-.

10. The writ petitioner filed **W.P.A 9552 of 2015** challenging such order dated 26th February, 2015 in which the Hon'ble Court passed an order on 18th June, 2015 remanding the matter for hearing confining to the dues, and for **explaining the basis of the orders for damages and interest.**

11. But the Provident Fund authorities have not disclosed the basis of the demand. However, replica orders dated 2nd July 2021 and 9th July, 2021 were passed towards affirmation of the order dated 26th February, 2015.

12. It appears from the record that in 2019, the company had been de-registered from the Registrar of Companies, as per Section 248(5) of the Companies Act, 2013.

13. Subsequently by an order dated 18th July, 2024 passed by the National Company Law Tribunal, Kolkata Bench in Case No. IVN.P/5(KB) 2023, the petitioner's application for re-registration under Section 252(3) of the Companies Act was allowed.

14. Regarding the objection of the learned counsel for the respondent/P.F. Authority as to the delay in preferring the present writ application, the petitioners' company submits that the company was unable to challenge the said order dated 9th July, 2021, in view of the de-registration and has taken necessary steps on the company being allowed to be re-registered in 2024.

15. **Mr. Majumder,** learned senior counsel appearing for the petitioners, submits that the provident fund authorities have demanded the amount of interest and damages for the period from 1990 to 2013; out of which M/s. Padam Mercantiles Private Limited was in operation of the jute mill only for the period from 10th May, 2004 to 14th May, 2009.

16. Mr. Majumder further argues that **the provident fund authorities having accepted the grant of instalment facilities to Gajanand Commercial Private Limited by this Hon'ble Court, cannot levy damages or charge interest on M/s. Padam Mercantiles Private**

Limited for the instalment facilities availed of by Gajanand Commercial Private Limited by reason of Hon'ble Court's orders, granting installments.

17. It is, thus, submitted that the respondent authorities have, therefore, proceeded illegally and ex-statutory the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 towards claiming damages and interest from the petitioner.

18. Hence, the writ application.

19. On perusal of the impugned order dated 26th February, 2015, it appears that the said proceedings under Section 14B and 7Q EPF & MP Act is for the period from 02/1993 to 10/2013. The authority concerned was pleased to impose the penal damages against the authorities for payment of the dues belatedly and interest under Section 7Q was also imposed vide order dated 26th February, 2015.

20. In the impugned order dated 2nd July, 2021 and also the notice for payment, it appears that the order and the notice relate to payment of interest for belated remittance for the period 02/1993 to 11/2013 U/s 7Q of the Employees' Provident Funds & Miscellaneous Provisions Scheme, 1952 in respect of M/s Padam Mercantiles Pvt. Ltd. Bearing P.F. Code No. WB/35.

21. It appears from the impugned order that the authority concerned has gone into discussing at length and interpreting the Hon'ble Court's order dated 18.06.2015 passed in WPA 9552 of 2015.

22. The authority concerned has interpreted the order of the Hon'ble Court as follows:-

"*Regarding the second contention that the judgment delivered by the Hon'ble High Court on 16.08.2010 passed* ***in M.A.T. 3623 of 2002 the Hon' ble High Court has given directions about the instalments to be remitted to liquidate the outstanding dues****. In the said order the Hon'ble Court has clearly mentioned that in case any interest is payable in that event the same may be determined in accordance with the law by the authority after giving opportunity to the employer concerned and be recovered accordingly. This condition is being fulfilled by this office by giving adequate opportunity to the establishment and the department has also given the detailed basis of calculation on the basis of which the proceedings have been conducted.* ***Thus this issue raised by the establishment is also addressed accordingly that there is no order of the High Court for not taking interest or damages for the said belated payment since the same is as per the law laid down and hence there is no dispute on this issue.***

Regarding the third contention of the establishment that the Hon'ble High Court has not granted to the Provident Fund department to charge or levy any amount of damages at least upto date of delivery of judgment i.e. 16.08.2005 is not supported by the order since no where it has been specifically mentioned that the EPFO cannot levy damages for the said belated payment. ***The instant case is only to decide the quantum of instalments and does not deal with the total conditions based on which the instalments is granted. All instalments are granted subject to the payment of damages and interest under the provisions of the statute and this case is no exception. Hence the establishment seems to have misinterpreted the order of the Hon'ble Court which has merely stated the quantum of instalments and not the conditions.*** *On the contrary the fact that during the proceedings the* ***advocate representing EPFO*** *had clearly stated that the* ***outstanding dues include amount determined under section 7A and interest and damage*** *which clearly shows that the there is no explicit order not to levy damages for belated payment.* ***Hence the amount if PF dues that have been remitted belatedly***

through instalments attract damages and interest as per law."

23. **Learned counsel for the Respondent RPF Authorities Mr. Prasad** has strongly objected to the prayer of the petitioners herein by arguing that the Employees Provident Fund and Miscellaneous Provisions Act, 1952 being a beneficial legislation for the employees, the power to recover damages under Section 14B and impose interest under Section 7Q of the Act, for such delayed payment is solely for the benefit of the said employees and as such the said statutory provisions are applied keeping in mind the purpose of such legislation.

24. Mr. Prasad further submits that the authority has rightly interpreted the Hon'ble High Courts' order in the impugned order and the same being in accordance with law requires no interference.

25. It is further argued by Mr. Prasad, that the said demand by the authorities is in accordance with the provision of the Act and as such the same be not interfered with in the interest of justice.

26. **Mr. Prasad further submits that:-**

i. The writ petition is not maintainable as the same is filed at a belated stage i.e. after lapse of more than 5 (five) years.

ii. That there is no over lapping of the periods for which penal damages has been imposed as stated imposed in the orders.

iii. It was clarified that the interest that has been calculated from the date on which the 7Q has been notified i.e. from 01.07.1997 and not from the actual date of delay.

iv. The number of days of delay from 14B is shown is as 6581 whereas the number of days of delay for 7Q is clearly shown as 5012 i.e. from 01.07.1997.

v. The condition in the judgment delivered by the Hon'ble High Court on 16.08.2010 passed in MAT No. 3623 of 2002 has been fulfilled by the office of the EPFO by giving adequate opportunity to the establishment and the department has also given the detailed basis of calculation on the basis of which the proceeding has been conducted.

vi. That no where it has been specifically mentioned in the order dated 16.08.2005 that the EPFO cannot levy damages for the said belated payment.

vii. All instalments are granted subject to the payment of damages and interest under the provision of statute and which is mandatory in nature and this case is no exception.

viii. The establishment seems to have misinterpreted the order of the Hon'ble Court which has merely stated the quantum of instalments and not the conditions.

ix. The interest imposed under Section 7Q of the Act is mandatory and automatic meant to compensate the fund for the late payment and it is the employer's statutory, mandatory, liability to deposit the same for belated remittance of contribution made for the wage months.

x. 7Q interest is directly related to EPF contribution of the subscribers which is payable to them and can neither be waived nor be reduced in any manner whatsoever.

xi. The petitioner is trying to evade the statutory mandatory liability which is not permissible under the EPF & MP Act, 1952, hence the issue raised by the petitioner is not entertainable and is liable to be dismissed.

27. Mr. Prasad has relied upon a judgment in ***Prakash Cotton Mills (P) Limited Vs. State of Bombay reported in (1957) 2 LLJ 490,*** wherein Justice Chagla unerringly laid down:-

> *"no labour legislation, no social legislation, no economic legislation, can be considered by a court without applying the principles of social justice in interpreting the provisions of these laws. Social justice is an objective which is embodied and enshrined in our Constitution .... it would indeed be startling for anyone to suggest that the court should shut its eyes to social justice and consider and interpret a law as if our country had not pledged itself to bringing about social justice".*

28. On hearing the learned counsels for the parties and on perusal of the written notes placed on behalf of the petitioners, it appears that vide the impugned order dated 16.08.2005, the Hon'ble Division Bench in MAT 3623 of 2002, which was an appeal against an order dated 25.09.2002 in WPA 147 of 1997, granted relief to the petitioners herein as follows:-

"After having heard the learned counsel for the parties in our view there is no alternative but to enhance the amount of the instalments in order to reduce the period during which the recovery could be completed in the circumstances, we direct the company to pay at the rate of Rs. 5,00,000 (five lakhs) per month from the month of September onwards payable by 15th of each succeeding month namely 15th October, 2005 for a period of three years namely till 15th September, 2008 and thereafter at the rate of Rs. 6,00,000/- per month on and from 15th October, 2008 until the entire certificate due is recovered. However, in default of two consecutive instalments or four instalments altogether or the last instalments, the Provident Fund Authority shall be entitled to recovery the whole amount at a time. ***In case any interest as payable in that event the same may be determined in accordance with law by*** *the authority after giving opportunity to the employer concerned and the recovered accordingly.*

The employer and the Provident Fund Authority shall at together and reconcile the statement of accounts with regard to the recovery already made and the amounts due within a period of three months."

29. Considering the arguments made by the learned counsels for the parties, it appears that Mr. Majumder has raised the following points in his written notes of argument:-

"a. Whether EPFO can charge interest and penalty under Sections 7Q and 14B of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 in instalments granted by the Hon'ble High Court on determined dues?

b. When the Provident Fund Authorities have issued the recovery notice dated May 06, 2013 claiming a sum of Rs. 6,300/- as the outstanding

dues, can there be further claim of penal interest and penal damages?"

30. **Mr. Majumder argues that:-**

> *"4. The EPFO is clothed with power to charge interest and levy damages under Sections 7Q and 14B of the Act. But all proceedings are conducted under Section 7A of the said Act.*
> *5. Section 7A of the said Act is a power to enquire and determine dues.*
> *6. The power to determine dues conferred under Section 7A through an enquiry is a Quasi Judicial exercise and in the nature of a proceeding where the Department claims and the Employer denies liability.*
> *But once the determined dues receive the stamp of liquidation modality by a judicial order of the Hon'ble High Court: the employer has to accept the said determination as a "just claim". Just like the employer is debarred from challenging the said amount likewise, EPFO cannot enhance such claim for the period."*

31. **It is further argued that:-**

> *"7. A contrary view will lead to a situation where EPFO will be allowed to overreach the judicial order of the Hon'ble High Court. In this case the mode of liquidation of arrear dues was fixed by the Division Bench of the Hon'ble High Court at Calcutta [Pages 22 to 24 of the Writ Petition].*
> *Only the Division Bench of this Hon'ble High Court can clarify such position and certainly not the EPFO.*
> *And as such the impugned order is thus in violation of order passed by the Hon'ble High Court at Calcutta, and hence, nullity in the eye of law."*

32. Mr. Majumder, denying such claim in the impugned order, which clearly claims penalty/damages under Section 14B and interest under Section 7Q of the EPF, for the delay in payment of dues, submits that this claim by the authorities is **beyond the liberty granted by the Hon'ble Division Bench,** which **permitted "recovery of interest in case it is due"** on the date of the order being 16.8.05, in accordance with law.

33. Mr. Majumder, further brings to the notice of the Court the submission of the **then learned counsel** for the respondent P.F. Authority before the Court, which was recorded by the Court as follows:-

> *"Dr. Sambuddha Chkraborty, learned Counsel for the appellant. Provident Fund Authority points out from the statement furnished by him in terms of our order passed earlier that a sum of Rs.5,20,84,479.14 on account of arrears of Provident Fund dues are still to be recovered in accordance with the Certified Demand issued pursuant* ***to the determination made under Section 7-A which includes interest and damages*** *in terms of Section 8-B read with Section 8 as pointed out by Mr. Kar. However, Mr. Chakraborty submits that* ***in case any interest is due in the event the same may be permitted to be recovered in accordance with law."***

34. This clearly shows that the ***"dues assessed under Section 7A, includes interest and damages"*** and the Court clearly noted that "**in case any interest is due"** proves that the findings and the interpretation of the High Court's order by the authority concerned in the impugned order is erroneous and not in accordance with law as the "interest, if any" referred to by the Hon'ble Division Bench was in respect of the **dues assessed under Section 7A which already included interest (7Q) and also damages (14B)** and as such there cannot be any **further claim** by the authority **under the same provisions of the act,** when the delay as claimed by the authority is not a delay as on the part of the petitioner as the said payment has been duly made as per the installments granted by the Court.

35. Admittedly, the submission of the learned counsel for the P.F. authority has been recorded before the Division Bench which categorically records that the dues assessed, on the date of order that is on 16.08.05, included interest (7Q) and also damages (14B) of the EPF Act.

36. That being the position, interest and damages cannot be imposed as it would lead to a case of interest on interest, when in fact, the delay if any, on and from the date of order 16.08.05, was in no way connected with the conduct of the petitioner, but was solely as per direction of the Hon'ble Court which proceeded to grant installments and the petitioner availed of the said remedy/relief granted in the interest of justice.

37. In case, the intention of the Court was to direct "interest" for delay **in view of installments granted by it,** the order dated 16.08.05 would not be record in the manner **"in case any interest is due",** which talks of the past (the then 7A order in force) and there is no indication that the interest talks of any further interest to be imposed.

38. Another factor, which clears the doubt herein, is that the Court clearly directed **"any interest if due"** and there is **no observation as to "damages".** This proves that if the intention of the Court was to impose interest on the delay in payment due to installments granted by it, **the same would also speak of damages.** This thus clearly proves that the interpretation in the impugned order is erroneous and thus not in accordance with law.

39. Accordingly the order dated 2nd July, 2021 and 9th July, 2021 passed by the respondent provident fund authorities being no. 1 & 2, **is quashed and set aside.**

40. WPA 14863 of 2026 is allowed.

41. Connected application, if any, stands disposed of.

42. Interim order, if any, stands vacated.

43. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)