

(2017) 03 KAR CK 0278
In the Karnataka High Court
Case No : 200036 of 2017

ANJUMAN-E-ISLAM

APPELLANT

Vs

ASSISTANT PROVIDENT FUND COMMISSIONER

RESPONDENT

Date of Decision : 24-03-2017

Acts Referred:

[Employees Provident Funds and Miscellaneous Provisions Act, 1952](#), [Section 7A](#), [Section 7A](#), [Section 14B](#), [Section 14B](#), [Section 7Q](#)

Citation : (2017) 03 KAR CK 0278

Hon'ble Judges : Aravind Kumar, B A Patil

Bench : DIVISION BENCH

Advocate : Harikirshna S Holla, R S Patil

Final Decision : Disposed

Judgement

1. Heard Sri. Sushen, learned counsel appearing on behalf of Sri. Harikrishna S. Holla for appellant and Sri. R.S. Patil learned counsel appearing for the respondent.

2. Appellant is an educational institution and is a covered establishment under the provisions of Employees Provident Funds and Miscellaneous Provisions Act, 1952 (for short the "Act"). On account of non-remittance of contributions, proceedings under the Act, proceedings came to be initiated against petitioner and an order under Section 7A of the Act was passed during January, 2013 determining the due payable by petitioner at Rs.23.27 lakhs. The said amount has been remitted by the appellant establishment. In respect of non-payment of interest as required to be paid by a defaulter under Section 7Q of the Act interest was proposed to be levied and as such proceedings came to be initiated by issuance of notice dated 11.12.2013 which was for both levy of damages under Section 14B of the Act as well as interest envisaged under Section 7Q of the Act. In the meanwhile, 7Q proceedings came to be finalized and interest was

quantified at Rs.36,40,678/-.

3. Being aggrieved by the said order writ petition came to be filed in W.P.No.200492/2017. The learned Single Judge dismissed the writ petition on the ground of availability of alternate remedy.

4. Though, Sri. Sushen learned counsel appearing for the appellant initially argued the matter on merits, he has submitted before this Court that if some breathing time is granted to the appellant interest as determined by respondent under the impugned order would be paid. Sri. R.S. Patil learned counsel appearing for the respondent has submitted that some reasonable time can be granted to the respondent subject to condition that the appellant does not default even a single installment.

5. The learned counsel for the appellant has filed an affidavit of undertaking on behalf of the appellant undertaking that amount of Rs.36,40,678/- payable by appellant covered establishment would be paid in installments of Rs.6 lakhs per quarters within six (06) installments payable quarterly. Sri. R.S. Patil would not oppose the said prayer.

6. In the light of the same, we place the affidavit of undertaking filed by the appellant on record and dispose of this writ appeal by permitting the appellant to pay the amount of Rs.36,40,678/- said under order dated 16.2.2016 in six (06) installments of Rs.6 lakhs each payable every quarterly and in the event of default of one installment respondent would be at liberty to proceed to recover the entire balance amount which would be due excluding the amount that would have been paid or remitted. Subject to the above, writ appeal stands disposed of. Ordered accordingly.