CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Date: 23.04.2026
PRESENT: SHRI SUSHIL KUMAR-II,
PRESIDING OFFICER

APPEAL No.143/2018

BETWEEN

M/s. Mariyam Trust (Guarding Public School)
Vadavucode, Puthencruz,
Ernakulam – 682 310 ... I Party / Appellant

AND

1. The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional Office, Kaloor
Kochi – 682 017

2. M/s. Pearson India Education Services (P) Ltd,
No. 10, 3rd Main, Aswini Layout
Intermediate Ring Road, Ejipura
Koramangala, Bangalore – 560 047 ... II Party / Respondents

Appearance

For the Appellant	M/s. Menon & Pai
For the Respondent	Adv. Sajeev Kumar K Gopal

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This appeal has been preferred by the appellant Trust against Order No.KR/KC/1014556/ Enf.5(1)/ 2017-18/50 dated 04.04.2018 passed by the Respondent, directing Smt. Renu C Babu, Managing Trustee or any other person in respect of the above said establishment to remit the amount of Rs.12,40,247/- and enquiry was initiated against M/s. Mariyam Trust (Guardian Public School), Vadavucode, Puthencruz, Ernakulum. In the memorandum of appeal the 2nd respondent is M/s Pearson India Education Services Pvt. Ltd. Appellant in the memorandum has stated that the task for running the school was entrusted to the 2nd respondent. The staff including the Teachers and Non teaching staff were selected and appointed by the 2nd respondent and fee was collected by the 2nd respondent. The relationship between the appellant and the 2nd respondent was Principal to Principal and not principal employer and Contractor. Therefore the liability to pay EPF contribution for the period by the 2nd respondent, who run the school on need.

2. The 2nd respondent has remitted an amount of Rs.10,77,057/- which is the contribution payable for the period from 09/2012 to 01/2015. Therefore the 2nd respondent ought to have been directed to remit the balance contribution amount payable.

3. The appellant stated that the order passed by the 1st respondent is contrary to the law against the Principles of justice, equity and good conscience and liable to be set aside. The appellant filed documents along with Annexure A1, A2.

4. The respondent in its reply stated that Appellant is the Managing Trustee of M/s. Mariyam Trust (Guardian Public School). The establishment is covered under the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (herein after referred to as 'the Act') under Section 1(3)(b) with effect from 13.06.2011 under the EPF code Number KR/1014556. As per records, non-academic services in r/o the Appellant was carried out by M/s. Pearson India Education Services Pvt. Ltd., Bangalore, hereinafter referred to as "Agency", vide Service Agreement dated 16.12.2010. As per

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letter marked as **Exhibit – 1,** the agreement between the Appellant and the Agency was terminated with effect from 07.10.2015.

5. The appellant had complied with the provisions of Act till 08/2012 and failed to comply with for the period from 09/2012 to 01/2015 and tried to evade its responsibilities by passing the blame on to the Agency. Adequate opportunity was provided to the appellant and after proper enquiry, the impugned order was passed. The appellant is the Principal Employer and liable to pay the contribution.

6. Heard learned Counsel appearing on behalf of the parties. It is worth to mention at this stage that the contribution has to be deposited by the 2nd respondent and having taken the responsibility, 2nd respondent remitted already an amount of Rs.10,77,057/-. Therefore, it is the 2nd respondent who is liable to pay the remaining amount. Learned Counsel appearing on behalf of the appellant pressed no other issue except the issue of liability of the 2nd respondent.

7. The agency must be registered before the Provident Fund authority and must have its own Provident Fund Account number. On perusal of memorandum of appeal, appellant nowhere mentioned that the 2nd respondent was registered under the Provident Fund Authority and had its own Provident Fund Account number.

8. **Liability of principal employer**

> "As per the provision of Para No 30(3) of the EPF Scheme 1952 mentioned that it shall be the responsibility of the principal employer to pay both the contributions payable by himself in respect of the employees directly employed by him and also in respect of the employees employed by or through a contractor and also administrative charges".

9. The learned Counsel appearing on behalf of appellant argued that the management regarding appointment, salary of Teachers and Non teaching staff, collection of fees from the students was handed over to the 2nd respondent. But appellant fails to submit the copy of an agreement under which the management was handed over to the 2nd Respondent.

10. As provisions of sec 17B, if the establishment is transferred and conditions are not established, then they are jointly and severally liable for EPF, PF dues upto the transfer and the new person is liable only upto the value of assets taken over. As I have pointed out above that the appellant fails to submit any copy of agreement which might have executed between the appellant and the 2nd Respondent. Therefore, this Tribunal is unable to ascertain the liability of 2nd Respondent. If any amount is paid by the 2nd respondent in spite the circumstances the appellant is responsible for the payment of remaining amount and respondent authority is empowered to recover the remaining amount from the employer.

11. **The doctrine of Management and control over the Establishment**

To ascertain the Provident Fund liability, it was the duty of the appellant to establish the control of the 2nd respondent over the day to day operations of the establishment, employment of workers, payment of wages, supervision and administration. As I have mentioned earlier that the appellant filed only two documents

1. Assessment Order
2. Notice of demand to the appellant.

12. The appellant fails to submit any documents which may establish the control over the work and Management of the establishment. Appellant fails to produce any appointment letter, salary or wages register & Maintenance of records. Thus, in the given circumstances old Management ie; the appellant presumed that it still

controls the staff and finance and therefore liable to make the contribution of the EPF dues.

13. The impugned order passed by the respondent is valid and requires no interference of this Tribunal. Therefore the appeal filed by the appellant is liable for dismissal.

Order

In view of the above discussion, the appeal filed by the appellant is dismissed.

Place:Ernakulam
Date: 23.04.2026

(SUSHIL KUMAR-II)
Presiding Officer