

Court No. - 8

Case :- WRIT - C No. - 1003644 of 2014

Petitioner :- The Oriental Insurance Company Ltd. Thr. Sri Sudhakar Tripathi

Respondent :- Motor Accident Claims Tribunal/Addl. District Judge And Others

Counsel for Petitioner :- Waquar Hashim, Suyash Agarwal

Counsel for Respondent :- Manish Kumar, Alok Mathur, Manish Mishra

Hon'ble Pankaj Bhatia, J.

1. Heard learned counsel for the petitioner, learned Standing Counsel for the State respondent and perused the material brought on record.

2. The present writ petition has been filed by the petitioner challenging the order dated 11.12.2013, whereby the Motor Accident Claims Tribunal (MACT) has refused to issue direction for refund of an amount of Rs.13641/-, which was deducted by the petitioner company towards the TDS paid on account of the total amount awarded against the petitioner company by the Tribunal.

3. The facts in brief are that an award was passed against the petitioner company for an amount of Rs.5,36,000/-, which was liable to be paid along with 6% interest within a period of 30 days from the date of the award, failing which, an amount of 9% was payable towards interest.

The petitioner's claim that an amount as awarded was paid by means of a cheque dated 04.09.2013 after deducting TDS @ 20%. The TDS deducted was quantified at Rs.13641/-. Subsequently and before the petitioner could deposit the amount, a warrant of recovery was also initiated against the petitioner company, which was recoverable as arrears of land revenue. The warrant amount was quantified at Rs.6,02,116/-. On account of pressure made by the Tehsil Authorities, the petitioner's company deposited a Demand Draft of Rs.6,02,116/- on 29.11.2013 and thereafter moved an application mainly on the ground that as the petitioner company had deposited the entire amount as awarded after deducting the TDS, the amount which was got deposited to the Tehsil Authorities should be directed to be refunded. The Tribunal after recorded the fact of deposit by the petitioner company after deducting the TDS was of the view that the amount deposited by the petitioner company should have been Rs.6,04,206/- and although it recorded the submission of the petitioner company with regard to the liability to deduct the TDS, held that the amount of TDS deducted by the petitioner company amounting to Rs.13641/- should be further deposited. In the alternative, directions were issued that the amount deposited by the

petitioner company before the District Magistrate should be returned after deducting an amount of Rs.13641/- which the petitioner company had deducted towards TDS. Thus in short, the contention of the counsel for the petitioner company is that the deduction of an amount of TDS was in terms of the mandate of the Income Tax Act and the Tribunal was wrong in directing the payment of the said amount of Rs.13641/-, which the petitioner company had deducted as TDS in terms of the mandate of Income Tax Act.

4. Considering the said submission and the fact that the deduction is liable to be done in terms of the mandate of the Income Tax Act, the direction of the Tribunal would amount to payment of double amount by the petitioner company. Thus to that extent the order dated 11.12.2013 can not be sustained. In case the amount of Rs.13641/- has been deducted from the amount payable by the petitioner company in terms of the order dated 11.12.2013 has not been paid, the same shall be paid to the petitioner company on its moving an application along with the certificate of deposit of Rs.13641/- to the Income Tax Authorities. The other amount shall be paid to the petitioner company by the District Magistrate. To further explain, in case the petitioner company deposits the TDS

certificate evidencing the deposit of Rs.13641/- as TDS paid by the petitioner company, the entire amount of Rs.6,02,116/- shall be paid to the petitioner company. In case, the certificate of deposit for an amount of Rs.13641/- is not furnished by the petitioner company, the petitioner company shall pay an amount of Rs.13641/- and on payment of said amount, the entire amount of Rs.6,02,116/- shall be refunded to the petitioner company, which is lying under the deposit of the District Magistrate.

With the aforesaid observation, the writ petition is ***disposed of.***

Order Date :- 29.11.2023
Arun