

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2015

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.28064 of 2015
and M.P.No.1 of 2015

Michelin India Pvt. Ltd.,
Having Registered Office at
Shyamala Towers, 3rd Floor,
136, Arcot Road,
Saligramam, Chennai - 600 093.
Rep by its Manager-employee Relations .. Petitioner

Vs

The Assistant Provident Fund Commissioner-I,
Employees Provident Fund Organisation,
37, Royapettah High Road,
Chennai - 600 014. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondent not to proceed any action against the petitioner based upon the summons ref.no.TN/MAS/0083081/000/Enf 521/Damages/ dated 16.04.2015 till such time the pronouncement of the judgment by the Division Bench of this Hon'ble Court in W.A.Nos.982, 985, 1026, 1343 and 1344 of 2011.

For Petitioner : Mr.Sanjay Mohan
for M/s. S.Ramasubramaniam Asso.

For Respondent : Mr.T.R.Sundaram

ORDER

Heard Mr.Sanjai Mohan, learned counsel appearing for the petitioner and Mr.T.R.Sundaram, learned counsel appearing for the respondent Corporation and with their consent, the Writ Petition is taken up for final disposal.

2. The petitioner, which is a manufacturing company has filed this Writ Petition praying for issuance of a Writ of Mandamus, not to proceed with any action against him, based on the summon dated 16.04.2014, till such time the judgment is pronounced by the Hon'ble Division Bench of this Court in Writ Appeal Nos.982 of 2011 etc., batch.

3. The learned counsel appearing for the petitioner submitted that the legal issue which is now pending before the Hon'ble Division Bench is whether allowances paid by the employers to their employees could be said to be part of basic wage, so as to attract contributions in accordance with the Employees' Provident Funds Miscellaneous Provisions Act, 1952?

4. It is not disputed by the learned counsel appearing for the respondent that the legal issue is pending consideration before the Hon'ble Division Bench and batch of appeals are pending and the interim orders are also in force. Therefore, in the interregnum, the respondent should not enforce the impugned proceedings as it would virtually amount to pre-deciding the issue. Hence, the Writ Petition is disposed of with an observation that the respondent shall not proceed further, pursuant to the impugned notice dated 16.04.2014, till the decision is rendered by the Hon'ble Division Bench in W.A.Nos. 982 of 2011 etc., batch. No costs. Consequently, connected miscellaneous petition is closed.

ds

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To:

The Assistant Provident Fund Commissioner-I,
Employees Provident Fund Organisation,
37, Royapettah High Road,
Chennai - 600 014.

+ 1 cc to M/s.S.Ramasubramaniam & Associates, Advocate SR 68343

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