



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:08.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

W.P. (MD) No. 1582 of 2015

and

M.P. (MD). No. 1 of 2015

M/s.Trichy Engineering College,
Represented by Chair Person,
Mrs.Sujatha Subramaniam,
1st Floor, A1 Salai Road Woriyur,
Trichy - 620 003.

.. Petitioner

Vs.

The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub Regional Officer,
No.18, Madurai Road,
Trichy - 620 008.

.. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for records from the file of the respondent in proceedings passed by the respondent in proceedings order in TN/43230/PDC/SRO/TRY/14B 2014, dated 25.11.2014 under 14-B & under 7Q of the EPF & MP Act, 1952 and quash the same.

For petitioner

: Mr. K.Kumaravel

For respondent

: Mr. Mr.V.S.Karthi

for M/s.V.S.Karthi Associates

O R D E R

Heard the learned Counsel on the either side.

2. The petitioner is an Establishment covered by the provisions of Employees' Provident Funds and Miscellaneous Provisions Act, 1952. The petitioner committed delay in remittance of the contribution amount. Therefore, the authority passed orders under Section 7Q as well as Section 14B of the said Act.

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3. As regards, levy of interest under Section 7Q of the said Act, the petitioner cannot really have any defence. The



said amount is bound to be paid by the petitioner. Therefore the challenge of the writ petitioner insofar as the interest portion is concerned, it must necessarily fail. However as regards, in levy of damages, the Hon'ble Supreme Court has held that the element of *mens rea* must be set out in the order levying damages. In this case, the authority has not demonstrated the element of *mens rea*. Merely remarking that the employer deliberately violated para 3 of Employees' Pension Scheme, 1995, would not be sufficient to levy damages. Therefore, the order levying damages is set aside.

4. This Writ petition is partly allowed accordingly. No costs. Consequently, M.P. (MD). No. 1 of 2015 is closed.

Sd/

Assistant Registrar (Cr1 side)

/True copy/

Sub Assistant Registrar

+1cc to Mr.K.KUMARAVEL, Advocate, SR.No. 47351

+1cc to Mr.V.S.KARTHI, Advocate, SR.No. 47163

W.P. (MD) .No.1582 of 2015
08.02.2018

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