

HON'BLE SRI JUSTICE M.GANGA RAO

W.P.No.26418 OF 2005

ORDER

This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating and connected with the order dated 31.5.2005 passed in A.T.A.No.408(1)2001 by the 1st respondent-Employees Provident Fund Appellate Tribunal, and quash the same by holding it as arbitrary and illegal.

The brief facts of the case are that 2nd respondent M/s. Pramida Chit Fund Private Limited, is covered under the provisions of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short 'the Act') with effect from 1.4.96 *vide* Code No.AP/WL/26739. The 2nd respondent had voluntarily agreed to pay the damages *vide* letter dated 21.8.1996 and coverage notice was issued to the 2nd respondent on 26.11.1997. Thereafter, the 2nd respondent had paid the contributions under the provisions of the Act. The petitioner had initiated action under Sections 14-B and 7 (Q) of the Act on the ground that the 2nd respondent made payments belatedly and issued notice to the 2nd respondent. The 2nd respondent participated in the enquiry. After due enquiry and verification, the petitioner *vide* order dated 10.4.2001/16.5.2001 levied damages for the delayed remittances

of the provident fund contributions for the period from April, 1996 to January, 1998 and April, 1999. Being aggrieved by the same, the 2nd respondent preferred an appeal before the 1st respondent *vide* ATA No.408(1)2001. The appellate authority, after considering the evidence on record, had come to the conclusion that since coverage notice itself was issued on 26.11.97 and code number was allotted by this coverage notice only, the 2nd respondent cannot be blamed for non-remitting the provident fund dues from 1.4.1996 till November, 1997, and disposed of the appeal by order dated 31.5.2005. The operative portion of the said order reads as under:

“Accordingly, I am of the view that interest of both the parties would be taken care of in case damages for the period April, 1996 to November, 1997 are levied at the rate of 12% per annum and for the remaining period as per the rates as prescribed under para 32-A of the EPF Scheme. Impugned order is set aside and the matter is remanded back to the RPFC, Warangal for recalculating the damages in terms of this order. The amount so calculated shall be paid by the appellant. Amount already deposited pursuant to the order of Hon’ble High Court shall be given adjustment of. Appellant shall appear before the RPFC, Warangal on 30.8.2005 and on subsequent dates as may be fixed during the enquiry. Appeal is disposed of in the above terms.”

Aggrieved by the said order, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that though the 2nd respondent had voluntarily agreed to pay

the damages *vide* letter dated 21.8.1996, belatedly remitted the provident fund dues. The Tribunal ought not to have levied damages at 12%, which is less than the percentages mentioned in para No.32-A of the Scheme. The 2nd respondent did not challenge the provision under para 32-A of the Scheme. Learned counsel further submits that the 2nd respondent never raised any objection before the petitioner during the enquiry under Section 14-B of the Act and the impugned order passed by the 1st respondent is illegal and the same is liable to be set aside.

Per contra, Sri Ch.Ramesh Babu, learned counsel appearing for the 2nd respondent, would contend that it is not in dispute that the 2nd respondent is the establishment covered under the provisions of the Act and on its application only, the coverage intimation was given *vide* impugned notice dated 16.11.1997, but coverage has come into force as per Section 1(4) of the Act from the date of Gazette notification. However, learned counsel does not dispute the impugned coverage intimation and payment of premiums under the Act. The 1st respondent-appellate authority has rightly levied the damages @ 12% for the period from April 1996 to November, 1997 and for the remaining period as per the rates prescribed under para 32-A of the EPF Scheme and remanded the matter to the

petitioner-Regional Provident Fund Commissioner, Warangal.

On perusal of the record, it is evident that the 2nd respondent establishment is covered under the provisions of the Act and coverage intimation was given by the petitioner on 16.11.1997. But the 2nd respondent had remitted the contributions after receipt of the said coverage intimation. Hence, the 2nd respondent cannot be blamed for payment of remittances. The 1st respondent-appellate authority having considered the interest of both the parties, rightly imposed the damages @ 12% for the period from April 1996 to November, 1997 and for the remaining period as per the rates prescribed under para 32-A of the EPF Scheme. In the facts and circumstances of the case, I see no illegality or irregularity in the order passed by the 1st respondent.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.GANGA RAO

27th June, 2018
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