IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.7544 of 2018

Govindammal .. Petitioner

Vs.

1.The District Collector,
District Collector Office,
Namakkal District.

2.The National Insurance Company Ltd.,
81-D, Chetty Street,
Thiruchencode,
Namakkal. .. Respondents

Petition filed under Article 226 of The Constitution of India praying for issuance of a writ of Mandamus to direct the first respondent to take action against the second respondent in the light of the proceedings of the learned Deputy Commissioner, Workmen Compensation, Conoor dated 31.05.2016 in Na.Ka.No.A/8992/2015.

For Petitioner : Mr.R.Shase

For Respondents : Mr.J.Ramesh, AGP for R1

: M/s.M.B.Sureka, for R2

ORDER

This Writ Petition has been filed, seeking for the issuance of a Writ of Mandamus to direct the first respondent to take action against the second respondent in the light of the proceedings of the learned Deputy Commissioner, Workmen Compensation, Conoor dated 31.05.2016 in Na.Ka.No.A/8992/2015.

2. On earlier occasion, when this Writ Petition was taken up for hearing, the learned Additional Government Pleader would

submit that the order of the Deputy Commissioner, Workmen Compensation, Conoor dated 31.5.2016 would be complied with and the amount payable to the petitioner would be deposited.

3. It appears that by proceedings dated 18.03.2019, a deposit of a sum of Rs.3,90,322/- has been made in favour of the Deputy Commissioner of Labour, Coonoor, which are extracted here under:

"Ref.651900/TPCL/WC.2008 155 Dated:18.03.2019

To
The Deputy Commissioner of Labour,
Coonoor.

Respected Sir/Madam,

Ref:WC No.580/2005, DCL, Erode
Writ Petition No.7544/2018, HC, Madras

With reference to the above case, we have satisfied the DCL award of Rs.3,85,889/-(without interest) on 15.10.2015 and Rs.6318/-(Rs.2500+interest) on 23.09.2016 in respect of the above case.

Now the petitioners filed the Writ Petition for recovering the interest amount of Rs.4,87,902/- from the date of accident i.e., 01.05.2005 to the date of deposit the award amount i.e., 15.10.2015.

Hence we forward a Cheque No.755801 dated 18.03.2019 drawn on IOB, Tiruchengode for Rs.3,90,322/- in favour of The Deputy Commissioner of Labour, Coonoor as detailed below:

Interest amount	Rs.4,87,902.00
Less: TDS @ 20%	Rs. 97,580.00
	Rs.3,90,322.00

kindly acknowledge and sent us the Receipt for the above payment at the earliest.

Thanking you,

Yours faithfully,

For National Insurance Co. Ltd
Divisional Manager.

4. Today, when the matter is taken up for hearing, the learned counsel for the petitioner would submit that the second respondent deducted a sum of Rs.97,580/- towards TDS at 20% on total outstanding of Rs.4,87,902/- payable to the petitioner. The learned counsel would therefore submit that a direction be issued to the second respondent not to deduct the said amount towards TDS and to deposit the entire amount of Rs.4,87,902/- as originally ordered by the authority under the Workmens Compensation Act.

5. At this, the learned counsel for the first respondent would submit that in view of the requirement under the provisions of Income tax, deduction has been made towards TDS and it is not for the second respondent to deduct or insist the TDS on the compensation payable to the petitioner.

6. At this, the learned counsel for the petitioner relied on a judgment passed by the learned Single Judge of this Court reported in 2016 (4) CTC 736 in the case of The Managing Director, Tamil Nadu State Transport Corporation (Sale) Ltd Vs. Chinnadurai. Paragraph nos.17 to 19, of the said judgment are extracted here under:

> "17. If there is a conflict between a social welfare legislation and a taxation legislation, then, this Court is of the view that a social welfare legislation should prevail since it subserves larger public interest. The Motor Vehicle Act is one such legislation which has been passed with a benevolent intention for compensating the accident victims who have suffered bodily disablement or loss of life and the Income Tax Act which is primarily intended for Tax collection by the State cannot put spokes in the effective and efficacious enforcement of the Motor Vehicles Act. In fact, if one might deeply analyse, it could be seen that there is no direct conflict between any provisions of the Income Tax Act and the Motor Vehicles Act and it is only by the interpretation of the provisions the concept of compulsory payment of TDS has crept into the realm of compensation payment in Motor Vehicle Accident cases.
>
> 18. Hence, with due respect I am unable to concur with the findings of the Karnataka High Court, the Chattisgarh High Court and this Court cited by the Revision Petitioner. This Court is of the view that the Division Bench judgment of the Himachal Pradesh high Court and

> the judgment of the Single Judge of the Punjab and Haryana High Court lay down the right law and hence, this Court arrives at the conclusion that the compensation awarded or the interest accruing therein from the compensation that has been awarded by the Motor Accident Claims Tribunal cannot be subjected to TDS and the same cannot be insisted to be paid to the Tax Authorities since the compensation and the interest awarded therein does not fall under the term 'income' as defined under the Income Tax Act, 1961.
>
> 19. Therefore, this Court directs that the Petitioner Corporation cannot deduct any amount towards TDS and the same shall also be deposited in addition to the amount that has already been deposited to the credit of M.C.O.P.No.879 of 2006, on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court, Dharmapuri, within a period of four weeks from the date of receipt of a copy of this order and the Respondent is entitled to take appropriate steps in a manner known to law to withdraw the amount.

7. According to the learned Single Judge, if there is a conflict between a Social Welfare Legislation and a Taxation Legislation, Social Welfare Legislation should prevail since it subserves larger public interest and the compensation like the present one which is being paid to the petitioner, there should not be any income tax deduction thereon at all.

8. This Court is in complete agreement with the ratio laid down by the learned Single Judge of this Court in the above referred decision, and this Court is of the view that in the matters of compensation of this nature, the provisions of income tax cannot be invoked for the purpose of deducting tax at source. Therefore, the deduction of Rs.97,580/- by the second respondent appears to be unjust, arbitrary and irrational and also contrary to the beneficial provisions of the Workmen Compensation Act.

9. For the above said reasons, this Court is of the view that the first respondent is directed to recover a sum of Rs.97,580/- and deposit the same within a period of two weeks from the date of receipt of a copy of this order. It is once again made clear that the second respondent is not entitled to deduct any amount towards TDS on the amount that is payable to

the petitioner under the provisions of the Workmen Compensation Act. On recovery of the TDS amount, which is deducted, the entire amount is liable to be paid to the petitioner.

10. The writ petition is disposed of, as indicated above. No costs.
dn

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To
1. The District Collector,
   Namakkal.

+1cc to Mr.M.Guruprasad, Advocate, SR.No.32360
+1cc to M/s.N.B.Surekha, Advocate, SR.No.31815
+1cc to the Govt.Pleader, Vide Sr.No.32745

W.P.No.7544 of 2018

Kak(21/05/2019)