IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Review Application No.31 of 2021
and
WMP Nos.3776 &3777 of 2021
in
in W.P.No.33725 of 2019

G.Srinivasan ... Applicant/Petitioner

Vs

1.Union of India
Ministry of Labour,
Rep. by Secretary,
Shram Shakti Bhawan,
RAFI MARG,
New Delhi – 110 001.

2.Ministry of Finance
Rep. by Secretary,
Ministry of Finance,
North Block,
New Delhi – 110 001.

3.Chairman, CBDT,
Ministry of Finance,
North Block,
New Delhi – 110 001. ... Respondents/Respondents

Prayer: Review Application under Order 47 Rules 1 and 2 read with Section 114 of the Code of Civil Procedure to review the order dated 01.12.2020 passed in W.P.No.33725 of 2019 and allow the said petition as prayed by the petitioner.

For Petitioner : Mr.G.Srinivasan
Paty in person

For Respondents : ---

O R D E R

(Order of the Court was made by
SENTHILKUMAR RAMAMOORTHY,J.)

The review applicant challenges an order dated 01.12.2020 in W.P.No.33725 of 2019, whereby the writ petition filed by the review applicant was dismissed.

2. In the said writ petition, the review applicant had challenged two notifications issued by the Ministry of Labour and Employment and by the Ministry of Finance whereby 29.03.2018 was fixed as the date of entry into force of amendments to the Payment of Gratuity Act, 1972(the Payment of Gratuity Act) and the Income Tax Act

1961(the Income Tax Act). The review applicant had prayed for a declaration that the date of entry into force of such amendments should be 1st January 2016 instead of 29th March 2018.

3. The writ petition was dismissed primarily on two grounds. First, that the Income Tax Act provided for exemption as regards gratuity income by drawing reference to the ceiling prescribed in the Payment of Gratuity Act. The writ petitioner had challenged the aforesaid notifications without challenging Section 10(10) of the Income Tax Act, 1961 which linked the exemption limit to the ceiling limit under the Payment of Gratuity Act. Secondly, that a declaration cannot be issued for the enforcement of statutory amendments, which expressly prescribe the date of entry into force, with effect from a date anterior thereto.

4. The review applicant relies upon a few judgments of the Hon'ble Supreme Court to contend that the order in the writ petition should be reviewed. In specific, the judgment of the Hon'ble Supreme Court in **D.S.Nakara vs. Union of India** is relied upon to contend that the said judgment applies not only to cut-off dates as regards

payment of pension but also to payment of gratuity. The judgment in **Burhanpur Tapti Mills Ltd vs. Burhanpur Tapti Mills Mazdoor Sangh** is also relied upon to contend that a scheme of gratuity and a scheme of pension have much in common. A further judgment in **Allahabad Bank vs. All India Allahabad Bank Retired Employees' Association,** which was decided on 15.12.2009, is relied upon to contend that remedial statutes should be construed liberally. In addition, the judgment in **Vijay vs. State of Maharashtra [(2006) 6 SCC 289]** is relied upon to contend that even a statute which is not expressly retrospective may be construed as retrospective if it is beneficial to the community.

5. The scope of review jurisdiction is narrow and limited to errors apparent on the face of the record, the discovery of new evidence which could not be placed before the Court in spite of the exercise of reasonable diligence, or any other sufficient reason. The failure or inability of the review applicant to place the judgments currently cited and the other grounds stated by the review applicant do not qualify on any of the aforementioned parameters.

6. Accordingly, Review Application No.31 of 2021 is dismissed. There will be no order as to costs. Consequently, connected W.M.P.No.3777 of 2021 is closed.

(S.B., CJ.) (S.K.R., J.)
15.04.2021

Index : Yes / No
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To:

1.The Secretary,
The Union of India
Ministry of Labour,
Shram Shakti Bhawan,
RAFI MARG,
New Delhi – 110 001.

2.The Secretary,
Ministry of Finance
Ministry of Finance,
North Block,
New Delhi – 110 001.

3.Chairman, CBDT,
Ministry of Finance,
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New Delhi – 110 001.

THE HON'BLE CHIEF JUSTICE
AND
SENTHILKUMAR RAMAMOORTHY, J.

rrg

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