



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.1576 of 2011

and M.P(MD)No.1 of 2011

M/s.Sankar Chemical Lime,
Rep. by its Managing Partner,
K.S.Raman.

... Appellant/Petitioner

Vs.

1.The Assistant Provident Fund Commissioner,
Sub-Regional Office,
Bhavishya Nidhi Bhawan,
NGO "B" Colony,
Tirunelveli - 627 007.

2.The Enforcement Officer,
Compliance Circle - II,
Sub-Regional Office,
Bhavishya Nidhi Bhawan,
NGO "B" Colony,
Tirunelveli - 627 007.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order, dated 12.11.2011 made in W.P(MD)No.4522 of 2008 on the file of this Court.

Prayer in WP(MD). 4522/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari, to call for the records and quash the orders bearing No.TN/TNY/33169/7Q/100020/PDC(1)/2008 dated 28.4.2008 passed by the First Respondent.



For Appellant : Mr.M.Aravind Subramaniam

For R - 1 : Mr.K.Murali Shankar

For R - 2 : No appearance

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JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

This Writ Appeal is directed against the order, dated 12.11.2011 passed in W.P(MD)No.4522 of 2008.

2.Originally, the said Writ Petition was filed by the appellant/writ petitioner challenging the demand of interest raised in the order bearing No.TN/TNY/33169/7Q/100020/PDC(1)/2008, dated 28.04.2008, passed by the first respondent along with interest. The appellant also seems to have challenged the demand of damages by way of another Writ Petition in W.P(MD)No.4523 of 2008. Both the Writ Petitions viz., W.P(MD)No.4522 of 2008 came to be dismissed and W.P(MD)No.4523 of 2008 came to be disposed of by common order on 12.11.2011 by the learned Single Judge.

3.While considering the demand notices, though the learned Single Judge has recorded that the appellant had specifically mentioned that there was no break-up for the details of the interest claimed under Section 7-Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, there was no befitting answer from the respondent-authorities for the same.

4.No doubt, prior notice need not be given to the employer, however, he is entitled to for the break-up of the amount, that has been arrived at, when a demand is made.

5.The learned counsel appearing for the respondents also fairly conceded that the break-up of the amount was not given in the demand notice. Therefore, he would submit that it would be appropriate to remit the matter back to the first respondent for fresh consideration and arrive at the amount of interest payable by the appellant as per Section 7-Q of the Act.

6.Considering the submission made by the learned counsel appearing on either side, the matter is remitted back to the first respondent for fresh consideration and arrive at the amount of interest payable by the appellant as per Section 7-Q of the Act. The said exercise shall be completed by the authority within a period of two months from the date of receipt of a copy of this order.



7. With the above direction, the Writ Appeal stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

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// True Copy //

/ /2021

Sub Assistant Registrar (CS)

ps

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The Assistant Provident Fund Commissioner,
Sub-Regional Office,
Bhavishya Nidhi Bhawan,
NGO "B" Colony,
Tirunelveli - 627 007.

2. The Enforcement Officer,
Compliance Circle - II,
Sub-Regional Office,
Bhavishya Nidhi Bhawan,
NGO "B" Colony,
Tirunelveli - 627 007.

+1 CC to Mr.K.MURALI SANKAR, Advocate (SR-6901[F] dated 24/02/2021)

+1 CC to Mr.M.ARAVIND SUBRAMANIAN, Advocate (SR-6847[F] dated 24/02/2021)

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