



Order dated 16.09.2022
in W.P.No.33559 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.09.2022

Coram:

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE P.D.AUDIKEVALU

W.P.No.33559 of 2016

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Mr.K.Pakkrisamy

.. Petitioner

Vs.

The Regional Director,
Employees' State Insurance Corporation,
No.143, Sterling Road,
Chennai-600 034.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondent to refund the sum of Rs.2,32,581/- together with interest, by passing orders on the representation, dated 25.05.2016.

For petitioner : No appearance

For respondents: Mr.K.Prabakar

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"Regulation 40: Refund of contribution erroneously paid: (1) Any contribution paid by a person under the erroneous belief that the contributions were payable by that person under that Act may be refunded without interest by the Corporation to that person, if application to that effect is made in writing before the commencement of the benefit period corresponding to the contribution period in which contribution was paid."

5. In the above context, it is pertinent to notice Regulations 31-A and 31-E of the said Regulations, which are extracted hereunder:

"Regulation 31-A: Interest on contribution due, but not paid in time.-- An employer who fails to pay contribution within the periods specified in regulation 31, shall be liable to pay simple interest at the rate of twelve per cent per annum in respect of each day of default or delay in payment of contribution."

"Regulation 31-E: Interest on amounts refunded to the employer.-- If an employer finally succeeds in the appeal under section 45-AA, the amount deposited by him with the Corporation, in full or part, as per decision of the Appellate Authority, shall be refunded to him along with simple interest at the rate specified



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in regulation 31-A."

6. On a perusal of the above Regulation 31-A, it is clear that if the employer fails to pay contribution within the specified period, the employer is liable to pay simple interest @ 12% per annum. Regulation 31-E states that if the employer finally succeeds in the appeal under Section 45-AA of the ESI Act, 1948, the amount deposited by him in the ESIC shall be refunded to the employee along with simple interest at the rate specified in Regulation 31-A.

7. Therefore, we have no hesitation to give a direction to the respondent-ESIC to refund the amount of Rs.2,32,581/- to the writ petitioner, with interest. Accordingly, we direct the respondent-ESIC to refund the said amount with interest @ 12% per annum from the date of deposit or remittance by the writ petitioner.

8. It is needless to mention that although the writ petitioner has asked for refund of interest from the date of the representation, dated 25.05.2016, as per the said Act/Regulations, he is entitled to get interest @ 12% from the date of deposit or remittance. Accordingly, the respondent-ESIC is directed to refund



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the amount of Rs.2,32,581/- with simple interest @ 12% from the date of deposit or remittance, within a period of four weeks from the date of receipt of a copy of this order.

9. With the above observations and direction, the Writ Petition is disposed of. There shall be no order as to costs.

(T.R., J) (P.D.A., J)
16.09.2022

Index: Yes/no

Speaking Order: Yes/no

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To

The Regional Director,
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and

P.D.AUDIKESAVALU, J

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