



WP No.32188 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2023

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

WP No.32188 of 2014

M/s.Chess Global Advisory Services Private Limited
3C, Eldorado,
112, Nungambakkam High Road,
Chennai-600 034,
Represented by Authorised Signatory,
T. Elangovan.

..Petitioner

Versus

The Assistant Provident Fund Commissioner (C&R),
Employees Provident Fund Organization,
37, Royapettah High Road,
Chennai-600 014.

..Respondent

Prayer: Writ Petition under Article 226 of the Constitution of India
praying for a Writ of Mandamus forbearing the respondent from
continuing the proceeding and initiating any recovery pursuant to the
proceedings No.CHN/TN/51555 CC II (22)/Eng/RegI/2014 dated
September 2014.

For Petitioner : Mr.G.Anand
for M/s.T.S.Gopalan &Co

For Respondents : Mr.T.R.Sundaram



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ORDER

This is a writ petition, which challenges the summons, issued in September 2014, by the Assistant Provident Fund Commissioner for Provident Fund, Chennai.

2. Both the petitioner as well as the respondent would agree that, the issue involved in this writ petition, is covered by a judgment of the Supreme Court in ***Regional Provident Fund Commissioner (II) West Bengal vs Vivekananda Vidyamandir and Others (2020) 17 SCC 643***. In the said judgment, the Supreme Court had held that materials have to be placed by the establishments to demonstrate that the allowances paid to its employees were either variable or were linked to any incentive for production resulting in greater output by the employee. A further burden cast upon the establishments is that the allowances are not being paid across the board to all employees in a particular category or were being paid especially to those who avail the opportunity.



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3. The issue, having been settled by the Supreme Court, suffice it to state that the writ petitioner is directed to submit his explanation to the summons issued by the respondent. It is left open to the petitioner to raise all issues including that the allowances that have been paid is not covered under basic wages under Section 2(b)(ii) of the Employees' Provident Funds and Miscellaneous Provisions Act of 1952.

4. With this liberty, the writ petition stands disposed of. There will no order as to costs.

01.06.2023

Index : Yes/No
Neutral Citation : Yes/No
mrn

To
The Assistant Provident Fund Commissioner (C&R),
Employees Provident Fund Organization,
37, Royapettah High Road,
Chennai-600 014.



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V. LAKSHMINARAYANAN, J.

(mrn)

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