BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).22343 of 2023

Section Office,
National Insurance Company Ltd.,
First Floor,
No.6, North Masi Street,
Madurai-625 001. ... Petitioner

Vs.

1.The Joint Commissioner of Labour,
Workmen Compensation Act Commissioner,
Madurai.

2.V.Bothiraja

3.R.Suriyanarayana Prakash ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the Respondent No.1 herein in Ka.Mu.A.40 of 2023, dated 12.04.2023 by refusing to receive the cheques towards deposit of compensation, quash the same and further direct the Respondent No.1 herein to accept the deposit of compensation amount and interest payable in EC No.82 of 2016 on the file of Respondent No.1 herein by deducting TDS in accordance with Section 194A of Income Tax Act, 1961.

For Petitioner : Mr.D.Sivaraman

For R1 : Mr.N.Muthuvijayan
Special Government Pleader

ORDER

The present writ petition has been filed to call for the records relating to the impugned order passed by the Respondent No.1 herein in Ka.Mu.A.40 of 2023, dated 12.04.2023 by refusing to receive the cheques towards deposit of compensation, quash the same and further direct the Respondent No.1 herein to accept the deposit of compensation amount and interest payable in EC No.82 of 2016 on the file of Respondent No.1 herein by deducting TDS in accordance with Section 194A of Income Tax Act, 1961.

2. Considering the nature of the leave to be granted, the issuance of notice to the respondents 2 and 3 is dispensed with.

3. The petitioner is an insurance company. It suffered an award in E.C.No.82 of 2016 on the file of the 1st respondent. The 1st respondent passed an order, dated 06.12.2022 directing the petitioner herein to pay compensation of Rs.3,64,493/- with interest at 12% per annum from the date of accident till

the date of deposit to the credit of 1st respondent (excluding 371 days). The cheque for an amount of Rs.3,64,493/- towards the principal compensation amount was drawn in favour of the 1st respondent. However, towards the interest amount which stands to a tune of Rs.3,10,728/-, the TDS on the interest amount was calculated as Rs.62,146/-. Deducting the same, a cheque for an amount of Rs.2,48,582/- towards interest was credited in the name of the 1st respondent. However, deducted amount of Rs.62,146/- was deposited with the income tax Department on 01.02.2023. Since TDS on the interest amount was deducted and thereafter, the cheque has been drawn, the 1st respondent refused to receive the deposit of compensation and has returned the same. Challenging the same, this writ petition came to be filed.

4. This issue as to whether the person who has suffered an award can deduct the tax as before such deposit is presently pending for consideration before the Hon'ble Division Bench in W.P.No.7693 of 2020. However, the Hon'ble Supreme Court has dealt with this matter in writ petition (Civil) No. 534 of 2020 wherein an *amicus curae* has been appointed and the Assistant Solicitor General was also required to clarify the aspect of tax deduction at source, wherein it has been pointed out by the learned Assistant Solicitor General, in MACT at 2 different rates from 10% to 20% tax is deducted at

source. However, an uniform system whereby TDS would be uniformly deducted is yet to be arrived at.

5. In view of the said clarification which was made by the ASG before the Hon'ble Supreme Court and the Hon'ble Apex Court had taken a view that the person who has suffered an award can deposit the deducted amount with the tax authority and that disbursal of the same can await the outcome of the writ petition that is now pending before the Hon'ble Division Bench. Accordingly, this Court is inclined to observe that the deduction of tax at source from the interest amount by the petitioner and deposit of the said amount before the Commissioner of income tax at Madurai may not be improper. Hence, pending adjudication before the various Courts and even before the Hon'ble Supreme Court, the 1st respondent is directed to accept the award amount after deduction of TDS from the interest.

6. Accordingly, this Writ Petition stands disposed of. No costs.

13.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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To

The Joint Commissioner of Labour,
Workmen Compensation Act Commissioner,
Madurai.

L.VICTORIA GOWRI, J.

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