IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.21630 of 2023
and
W.M.P.Nos.31893 of 2024 & 21002 of 2023

The Management,
Sanmina SCI India Pvt. Ltd.,
OZ-1, SIPCOT Hi-Tech SEZ,
Oragadam, Sriperumbudur Taluk,
Kancheepuram District - 602 105.
Represented by its Director HR
R.Kumar ... Petitioner

Vs.

1. The Sengai Anna Mavatta Jananayaga Thozhilalar Sangam,
Regd. No.1062/CPT,
No.4/172, National Highways,
Otteri, Vandaloor,
Chennai - 600 048.

2. The Secretary,
Uzhaippor Urimai Iyakkam,
No.268, Bajanai Kovil Street,
Pillaipakam, Sriperumpudhur Vattam,
Kanchipuram District - 602 105. ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records and quash the award dated 08.05.2023 passed in O.P.No.3 of 2021 by the Presiding Officer, Industrial Tribunal, Chennai.

For Petitioner	:	Mr.A.L.Somaiyaji Senior Counsel for Mr.C.Manohar Gupta
For Respondents	:	Mr.Mr.S.Kumareswamy for R2 No appearance for R1

O R D E R

When the matter came up for hearing, the learned counsel appearing for both sides submitted that the matter is settled between the workmen and the Management. A Joint Compromise Memo duly signed by both sides and the learned counsel is also filed before this Court. The memorandum of settlement entered into under Section 12(3) of the Industrial Disputes Act, 1947 in Form-B is also enclosed.

2. In view thereof, this Writ Petition is disposed of in terms of the Joint Compromise Memo and 12(3) settlement annexed with the Joint Compromise Memo and they shall form part of the order.

3. Since the lumpsum payment is also made to the workmen as per the compromise, this Court adds that the Hon'ble Supreme Court of India in the case of ***O.P.Bhandari Vs. Indian Tourism Development Corporation Limited and others*** reported in ***(1986) 4 SCC 377*** in paragraph No.10(VI) held as follows:

> *"VI - Since the amount is being paid in one lump sum, it is likely that the employer may take recourse to Section 192 of the Income Tax Act, 1961 which provides that any person responsible for paying any income chargeable under the head 'Salaries', shall, at the time of payment, deduct income tax on the amount payable at the average rate of income computed on the basis of the rates in force for the financial year in which the payment is made, on the estimated income of the assessee under this head for that financial year. If, therefore, the employer proceeds to deduct Income- tax as provided by Section 192, we would like to make it abundantly clear that the appellant would be entitled to relief under Section 89 of the Income Tax Act which provides that where by reason of any portion of assessee's salary being paid in arrears or in advance by reason of his having received in any one financial year salary for more than 12 months or a payment which under the provisions of clause (3) of Section 17 is a profit in lieu of salary, his income is assessed at a higher rate than that it would otherwise have been assessed, the Income Tax officer shall on an application made to him in this behalf grant such relief as may be prescribed. The prescribed relief is set*

out in Rule 21-A of the Income Tax Rules. The appellant is entitled to relief under Section 89 because compensation herein awarded includes salary which has been in arrears as also the compensation in lieu of reinstatement and the relief should be given as provided by Section 89 of the Income Tax Act read with Rule 21-A of the Income Tax Rules. The appellant is indisputably entitled to the same. If any application is required to be made, the appellant may submit the same to the competent authority and the Corporation shall, through its Tax Consultant, assist the appellant for obtaining the relief. The appeal is allowed. The order of the High Court is set aside. Order in the aforesaid terms is passed."

4. Further in ***Sundaram Motors Private Limited Vs. Ameerjan and another*** reported in ***AIR 1985 SC 144***, the Hon'ble Supreme Court held as follows:

"7. We have made it abundantly clear in our judgment and order dated August 7, 1984 that the compensation awarded is in lieu of back wages, and future wages in lieu of reinstatement which were and would be payable from year to year. Therefore, we made it very clear that the entire amount awarded by our judgment shall be spread over from 1970 to 1989, 1970 being the year of dismissal from service and 1989 being the year of retirement on superannuation as per the relevant service rules. We are accordingly clear in our minds that viewed from

any angle, respondent-Ameerjan, the workman is fully entitled to the relief under Section 89 of the Income Tax Act. No other view on this point is possible. In order to satisfy the requirements of law, the respondent-Ameerjan shall with the assistance of the appellant and its income-tax consultants make the necessary application to the Income Tax Officer having jurisdiction in the matter at Bangalore for relief under Section 89 and the officer concerned shall, without further enquiry, grant him immediate relief under Section 89 and dispose of the proceedings within a period of three months from the date of the application so that the spirit and purpose of our judgment and order would be implemented without unnecessary delay and the agony and torture of unemployment heaped upon the lowly paid respondent Ameerjan from 1970 be relieved.

5. Therefore, in the present case also, the workmen will be entitled to the same benefit in respect of one lumpsum payment and the authorities shall act accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

15.11.2024

Neutral Citation : Yes
vji

To

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