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W.P.No.26971 of 2024
and W.M.P.No.29474 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.26971 of 2024
and W.M.P.No.29474 of 2024

The Regional Provident Fund Commissioner - II (PDC),
Employees Provident Fund Organisation,
Regional Office, Tambaram,
No.3, Rajaji Salai,
Chennai - 600 045.

...

Petitioner

versus

M/s.I.P.Rings Ltd.,
D-11/12, Industrial Estate,
Maraimalai Nagar - 603 209,
Kanchipuram District.

...

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records pertaining to the order passed by the learned Presiding Officer, CGIT cum Labour Court and Employees Provident Fund Appellate Tribunal, Chennai in EPFA No.564/2018 dated 24.04.2023, quash the same.

For Petitioner : Mr.A.Ilangovan



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ORDER

The Writ Petition has been filed challenging the award of the learned Presiding Officer, CGIT cum Labour Court and Employees Provident Fund Appellate Tribunal, Chennai in EPFA No.564/2018 dated 24.04.2023.

2. The above appeal has been filed by the respondent company against the assessment of damages made under Section 14-B of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 dated 12.01.2016. The damages have been assessed at Rs.12,93,042/- for the period from 03/2011 to 12/2014. But however, the Appellate Tribunal thought it fit to reduce the damages so assessed and reduced it by 50% and modified the same and ordered to pay the half of Rs. 12,93,042/-. Since the respondent has already paid Rs.4,00,000/- to the petitioner in compliance of the order of the Appellate Tribunal dated 02.08.2019, the same has also been ordered to be appropriated against 50% modified damages.

3. The learned counsel for the petitioner submitted that the scheme being a welfare scheme, no lenience can be shown to the defaulters



and hence, the damages as ordered by the Appellate Tribunal are unsustainable.

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4. On perusal of the orders of the Appellate Tribunal, it is seen that the Appellate Tribunal has made an observation that the levying damages for delayed remittance cannot be found fault, but however indulgence has been shown in the quantum of damages by taking into consideration that the respondent has remitted the interest of Rs.6,22,381/-. The adjudicating authority in his order has not considered the said aspect. Since the essential fact has lost sight of and that has impacted the consideration taken up for quantifying the damages, the Appellate Tribunal thought it fit to show some lenience.

5. The learned counsel for the petitioner has cited the decision of this Court in the case of ***The Assistant Provident Fund Commissioner Vs. The Employees Provident Fund and Ors.*** reported in ***2020 (1) CWC 234*** wherein it is held that exercising the power of discretion cannot lead to mechanical deduction of damages and such consideration has to be shown in exceptional circumstances. But the case involved in the above judgment



would refer a drastic reduction of 17% damages to 5%. Since the reduction almost equivalent to waiver the Court has made strong observation.

6. The other judgment cited by the learned counsel for the petitioner is the judgment of the Division Bench of this Court in ***Ramanathapuram District Co-operative Printing Works Limited Vs. Employees' Provident Fund Appellate Tribunal*** reported in ***2021 LLR 443***, wherein this Court has held that the delay could have been caused due to various reasons but it is for the assessee to establish through evidence in order to enable the authorities to take a lenient view. But the above findings of the Court has to be read in the context of its own facts of the case.

7. Reliance was placed by the judgment of the Hon'ble Supreme Court in ***Horticulture Experiment Station Vs. Provident Fund Organization*** reported in ***(2022) 4 SCC 516*** and the same applicable to its own facts. There cannot be a straight jacket formula by assessing the *mens rea* and it is for the authority concerned to look into the merits of the each case and said exercise has only been done properly by the appellate tribunal.



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8. The appellate Tribunal relied on the judgment of this Court in *Terrace Estates, Unit of United Plantation Ltd. Vs. APFC, Coimbatore* reported in *2010 LAB IC 252* and judgment of the Gujarat High Court in *Gandhidham Spinning and Mfg. Co. Ltd. Vs. RPFC* reported in *1987 1 LLN 813*, wherein it is observed that the assessment of damages on the upper limit is mechanical and not logical. Having found sound reasons for reducing the damages, the Tribunal has chosen to reduce it to 50% and made the modification. As the order of the Appellate Tribunal is well reasoned and logical, I find no reason for interference.

9. Accordingly, this Writ Petition is **dismissed**. No costs. Consequently, connected Miscellaneous Petition is closed.

19.09.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

The Presiding Officer,

CGIT cum Labour Court and

Employees Provident Fund Appellate Tribunal,

Chennai.

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R.N.MANJULA, J.

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