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W.P.Nos.28961 of 2024 etc

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.28961, 28964, 28967, 28972,
28975 & 28977 of 2024 and
W.M.P.No.31615, 31617, 31621,
31627, 31631 & 31633 of 2024

W.P.No.28961 of 2024

T Abdul Wahid Tanneries Pvt Ltd.,
'C Tannery',
Solur Village,
Ambur 635 802
Rep. by its Director.

... Petitioner

Vs.

The Regional PF Commissioner - II,
Regional Office, Vellore,
S-1 TNHB, Phase III,
Sathuvachari, Vellore 632 009.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the respondent in proceedings No.TB/VLR/10602/7Q/PDC/2024/1638 (Dairy No.237 of 2023) and quash its order dated 18.07.2024.



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For Petitioner : Mr.P.Raghunathan for
M/s.T.S.Gopalan and Co

For Respondent : Mr.P.K.Paneerselvam

COMMON ORDER

These Writ Petitions have been filed challenging the orders of the respondent authority in issuing the proceedings for levying interest on the EPF contribution payable by the petitioner Management and the proceedings issued under Section 14(B) for levying damages for the default on the part of the petitioner.

2. Heard Mr.P.Raghunathan, learned counsel for the petitioner and Mr.P.K.Paneerselvam, learned Standing Counsel for the respondent in all the Writ Petitions and perused the materials available on record.

3. The learned counsel for the petitioner submitted that so far as 14(B) wage proceedings are concerned, they have been issued without even giving sufficient opportunity to the petitioner and without considering that the petitioner Company was suffering loss from Covid



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-19 pandemic period. So far as the interest levied under 7(Q) is concerned, it has been levied *vide* two proceedings for the same period.

Hence, there is an overlapping and the respondent authority has worked out and imposed interest by overlooking the fact that the period for which, the interest has been calculated is a repeated one. Therefore, there is no application of mind on the part of the respondent.

4. The learned Standing Counsel for the respondent submitted that the petitioner has chosen to file these Writ Petitions aggrieved over the order passed under Section 14(b) for levying damages without invoking the statutory remedy by way of preferring any appeal before the Appellate Authority.

5. By way of reply, the learned counsel for the petitioner submitted that since there is no regular Presiding Officer, the petitioner has chosen to filed these Writ Petitions without filing any appeal before the Appellate Authority.



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6. It is learnt that the Presiding Officer of the Central Government Industrial Tribunal (CGIT) is manned by the officer who is holding additional charge and the hearing is taken once in a month. The petitioner cannot outrightly state that the post is vacant and hence, the petitioner's remedy lies only before this Court.

7. So far as the interest levied under Section 7(Q) is concerned, it is not the contention of the petitioner that the respondent authority has levied interest beyond the statutory interest. But his contention is that the interest on Provident Fund has been drastically reduced from 12% to 8.5% to the beneficiaries. In such case, it is unfair on the part of the respondent to levy 12% interest.

8. When the provision explicitly mentions about the rate of interest and if for any reason the petitioner feels that the above provision itself is unconstitutional, then the remedy for the petitioner lies elsewhere and not be way of preferring these Writ Petitions in the present fashion in which the relief is claimed.



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9. Since the petitioner has raised the Covid-19 pandemic as one of the grounds for reducing damages under Section 14(B), it is open to the petitioner to raise those contentions before the appropriate authority. Since lot of factual aspects are involved in the dispute made and needs to be settled, those issues cannot be dealt by exercising the powers of this Court under Section 226 of the Constitution of India.

10. In view of the above stated reasons, these Writ Petitions are disposed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
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R.N.MANJULA, J.

gsk

To

The Regional PF Commissioner - II,
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S-1 TNHB, Phase III,
Sathuvachari, Vellore 632 009.

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