



W.P.No.29874 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.29874 of 2024 and
W.M.P.No.32577 of 2024

The Regional Provident Fund Commissioner II,
EPF Organization, Regional Office,
No.3, Rajaji Salai, Tambaram 600 045.

... Petitioner

Vs.

M/s.Mccoy Clothing Pvt. Ltd.,
Rep by Mr.Ramanathan K,
3rd Floor, No.2, Thiruvalluvar Nagar,
1st Main Road, Thiruvanmiyur,
Chennai 600 041.

... 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 Central Government Industrial Tribunal cum Labour Court & EPF Appellate Tribunal, Chennai in proceedings EPFA No.581 of 2018 dated 22.06.2023 and quash the same.

For Petitioner : Mr.Y.T.Aravind Gosh



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ORDER

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This Writ Petition has been filed to issue a Writ of Certiorari, to call for the records of the Central Government Industrial Tribunal cum Labour Court & EPF Appellate Tribunal, Chennai in proceedings EPFA No.581 of 2018 dated 22.06.2023 and quash the same.

2. Heard Mr.Y.T.Aravind Gosh, learned counsel for the petitioner and perused the materials available on record.

3. The petitioner has passed an order on 19.01.2018 against the respondent by imposing a sum of Rs.18,30,232/- towards damages under Section 14B of the Act. Against which, the respondent preferred an Appeal before the Central Government Industrial Tribunal cum Labour Court & EPF Appellate Tribunal, Chennai in EPFA No.581 of 2018. In the said Appeal, an order has been passed by the Tribunal by modifying the damages to 45% on the total dues.



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4. The learned counsel for the petitioner submitted that the Tribunal has assigned a reason that the petitioner authority ought to have taken steps to find out the real cause of delayed remittance and other factors before imposing the damages at 100%.

5. It is seen from the records that the damages have been imposed at the upper limit without exercising any discretion. Even though it is for the respondent establishment to make appearance before the competent authority and make their submission as to why the damages cannot be imposed at the upper limit, the petitioner authority also should not act in a mechanical manner without assigning any reason.

6. It appears that the respondent establishment had remitted the interest already charged under Section 7Q of the Act. In such circumstances, the penalty of imposing the damages under Section 14B could have been considered in a more elaborate manner. As the authority appears to have passed the order only due to the absence of the



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respondent to make his submission, without assigning any other reasons for fixing upper limit of damages, the Tribunal has relied on the various decisions of this Court as well as the Hon'ble Supreme Court and arrived at a conclusion that the fixation of upper limit of damages is mechanical.

7. Had the order for recovery of damages been imposed below the upper limit, it is understandable that some consideration should have been made by making a comprehensive appreciation of the entire factors involved. Whenever the upper limit of 100% damages is imposed, it is obligatory on the part of the competent authority to assign specific reasons as to why the establishment deserves such a higher amount of damages. In the absence of any request from the side of the establishment alone cannot be the reason for awarding 100% damages. The order has been passed in the absence of any other material consideration for awarding the upper limit. The Tribunal has appraised the matter in its entirety and had chosen to levy the damages reasonably by modifying it to 45%. Therefore, in my view, the order does not require any interference from this Court.



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8. In view of the above stated reasons, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

14.10.2024

To

The Central Government Industrial Tribunal
cum Labour Court & EPF Appellate Tribunal,
Chennai



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R.N.MANJULA, J.

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