BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.6907 of 2024

The Manager,
M/s. New India Assurance Co.Ltd.,
TP Claims Hub,
CMTS Bhavan,
70 feet Road,
Elis Nagar,
Madurai – 625 006. ... Petitioner

Vs

1.The Deputy Commissioner of Labour,
and Workman Compensation Commissioner,
Madurai.

2.Kartheeswari
3.Vaitheeswari
4.Shivasakthi
5.Selvakumaran
6. Mythili

7.The Commissioner,
Income Tax Department,
Madurai. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to accept the Demand Draft in D.D. No. 46779840, dated 07.02.2024 in respect of the award amount passed in E.C. 27 of 2023 and interest payable under the award of Workmen Compensation Act, with TDS deduction in accordance with Section 194A of Income Tax Act, 1961.

For Petitioner	: Mr.G.Prabhu Rajadurai
For R1	: Mr.A.Baskaran Additional Government Pleader

O R D E R

The petitioner Insurance Company has suffered an order under the Workmen Compensation Act in WC No.27 of 2023, dated 12.12.2023, in and by which, the Deputy Commissioner of Labour and Workman Compensation Commissioner, Madurai/ the first respondent herein has directed the petitioner Insurance Company to pay a sum of Rs.16,19,600/- to the respondents 2 to 4 together with interest at the rate of 12% from the date of incident to the date of realization. The petitioner Insurance Company has taken a Demand Draft for a sum of Rs.19,04,259/-, vide DD No.46779840, dated

07.02.2024 and presented the same before the first respondent. However, the same was not accepted by the first respondent on the ground that the petitioner Insurance Company has deducted a sum of Rs.31,629/- from the said amount towards Tax Deducted at Source. Therefore, the petitioner is before this Court with this writ petition for a Mandamus, directing the first respondent to accept the payment made by the petitioner Insurance Company, after deduction of TDS amount.

2.The learned counsel appearing for the petitioner Insurance company submits that the deducted amount of Rs.31,629/- is the Tax Deducted at Source (TDS) amount, which is liable to be paid by the Insurance Company, as per Section 194A of Income Tax Act, 1962. He further submits that in the event, if the payment has been made without deducting TDS, the petitioner has to face penal consequences under the Income Tax Act. Therefore, as per Section 194A of Income Tax Act, they have deducted TDS amount to the interest liability for Rs.3,16,288/-, which exceeds Rs.50,000/-.

However, without considering the same, the first respondent has refused to accept the payment made by the petitioner Insurance Company.

3.The learned counsel further submits that the issue whether a person, who had suffered an award can deduct the tax at source before such deposit, is at present pending before the Division Bench of this Court in W.P.No.7963 of 2020. To substantiate his contention, the learned counsel has relied on the order passed by this Court in a similar writ petition in WP(MD) No.18445 of 2024, wherein, this Court has passed an order as under:-

> *3. When a similar writ petition was filed before me in W.P(MD)No.9121 of 2023, I held as follows:*
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> *"2. The writ petitioner is an insurance company. It suffered an award in W.C.No.89/2021 on the file of the first respondent. The petitioner intends to challenge the said award by filing Civil Miscellaneous Appeal before this Court. As per the statutory requirement, the petitioner has to necessarily deposit the entire award amount before the first respondent. The question that has arisen for*

consideration is whether the petitioner can deduct Tax at Source before making such deposit. The first respondent insists that without making any such deduction, the entire award amount should be deposited. The stand of the petitioner is that they do not propose to retain the deducted amount but they would deposit the same with the fourth respondent. It has also stated that the issue as to whether the person who had suffered an award can deduct the tax at source before such deposit is presently pending consideration before the Hon'ble Division Bench in W.P.No.7693 of 2020. I am also informed that in similar cases, this Court has taken the view that the person who has suffered the 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."

I am inclined to adopt the very same approach in this case also. The petitioner is permitted to deduct tax at source in the award amount and deposit the same with the first respondent. The first respondent is directed to accept the award amount minus TDS.

4. This writ petition is disposed of accordingly.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

4. In view of the decision taken by this Court as stated supra, the first respondent is directed to accept the Demand Draft in D.D. No.46779840, dated 07.02.2024 in respect of the award amount passed in E.C. 27 of 2023 and interest payable under the award of Workmen Compensation Act, with TDS deduction in accordance with Section 194A of Income Tax Act, 1961.

5. With the above direction, this writ petition is disposed of accordingly. No costs.

24.09.2024

NCC:Yes/No
Index:Yes
vrn

To

1.The Deputy Commissioner of Labour,
and Workman Compensation Commissioner,
Madurai.

2.The Commissioner,
Income Tax Department,
Madurai.

B.PUGALENDHI, J.

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Order made in
W.P(MD)No.6907 of 2024

24.09.2024