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W.P.No.23435 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.23435 of 2019

And

W.M.P.No.23213 of 2019

M/s.Karaikal Chlorates
Rep. by its General Manager,
Shri.K.Sathiyavan,
222, Melakasakudy Village,
Nedungadu Commune Panchayat
Karaikal – 609 603
Union Territory of Puducherry

... Petitioner

Vs.

1.Presiding Officer,
Employees Provident Fund Appellate Tribunal,
1st Floor, B – wing,
No.26, Haddows Road,
Shastri Bhawan,
Chennai – 600 006.

2.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub – Regional Office,
101, 100 Feet Road, Cholan Nagar,
Olandai Keerapalayam,
Puducherry – 605 004.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari to call for records relating to the impugned



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order of the first respondent and quash the same in EPFA 197/2017 (ATA 387 (13) 13), dated 26.03.2019 and consequential order passed by the second respondent under Section 7A vide Reference No.TBM/SRO/PCY/ PC/562/Comp/2013 dated 16.05.2013 and to issue such other appropriate directions or orders to the first respondent and grant such other remedy and relief to this petitioner.

For Petitioner : Mr.G.Manivannan
For Respondents : Mr.K.Srinivasamurthy

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records relating to the impugned order of the first respondent and quash the same in EPFA 197/2017 (ATA 387 (13) 13), dated 26.03.2019 and consequential order passed by the second respondent under Section 7A vide Reference No.TBM/SRO/PCY/ PC/562/Comp/2013 dated 16.05.2013.

2.The case of the petitioner is that the petitioner is a factory situated at Nedungadu, a remote location at Karaikal and workers hailing from various villages could not afford to spend from their



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pockets to reach the work spot and hence the petitioner paid conveyance allowance to the employees enabling them to come for work, however, the second respondent initiated proceedings under Section 7A of the EPF Act and vide order dated 16.05.2013 determined a sum of Rs.2,64,846/- as contribution payable on conveyance allowance paid to the petitioner's employees for the period from August, 2010 to March, 2013. Challenging the same, the petitioner preferred appeal before the Appellate Authority and the Appellate Authority confirmed the order passed by the original Authority. Challenging the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that conveyance allowance was paid to the employees enabling them to come for work on the basis of the distance they travel from their village to the work spot and not for doing work and hence, it does not fall under the category of wages defined under the EPF Act, however, the same was not properly adjudicated by the respondents 1 and 2. The learned counsel further submitted that the issue involved in the present case is covered by the decision of the Hon'ble Apex Court in the case of ***The Employees State Insurance Corporation Vs. M/s.Texmo Industries [Special Leave Petition (C.) No.811 of***



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2021 dated 08.03.2021], wherein, the Hon'ble Apex Court has held that conveyance allowance and travelling allowance does not form part of wages.

4.Per contra, the learned counsel appearing for the respondents submitted that the petitioner Management paid conveyance allowance to all the employees and further submitted that as per Section 2B of the EPF Act, any emolument paid to the employees is part of wages, thereby the original Authority passed order under Section 7A of the Act and the same was confirmed by the Appellate Authority. In support of his contentions, the learned counsel relied upon the decision of the Hon'ble Apex Court reported in **(1963) 3 SCR 978 [Bridge and Roofs Co., Ltd. Vs. Union of India and others]** and the order of this Court in the case of **Central Board of Trustees (EPF), Represented by Assistant Provident Fund Commissioner Vs. Presiding Officer, Employees Provident Fund Appellate Tribunal and another [W.P.No.34835 of 2014 dated 02.08.2023]**.

5.Heard the arguments advanced on either side and perused the materials available on record.



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6. Admittedly the second respondent conducted adjudication and included the conveyance allowance paid to the employees of the petitioner on the basis of the distance travelled by them to the work spot for the period from August, 2010 to March, 2013, however, the said issue was not properly adjudicated by the respondents 1 and 2.

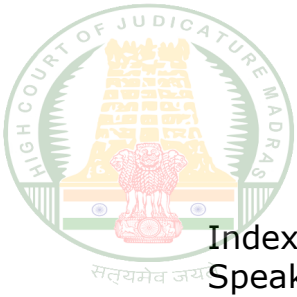
7. In view of the above, this Court without expressing any opinion on the merits of the case, set aside the order of the first respondent dated 26.03.2019 and the order of the second respondent dated 16.05.2013 and remand the matter back to the second respondent for fresh adjudication. The second respondent shall hear the petitioner and adjudicate the issue as to whether the conveyance allowance paid by the petitioner Management to its employees is part of wages or not and pass appropriate orders, as expeditiously as possible.

8. The writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

22.04.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

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M.DHANDAPANI,J.
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To

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