



W.P.(MD) No.18770 of 2013

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.18770 of 2013

and

M.P.(MD) No.1 of 2013

The Assistant Provident Fund
Commissioner
Office of the Regional Provident
Fund Commissioner
Lady Doak College Road
Chokkikulam, Madurai District

... Petitioner

-VS-

1.The Presiding Officer
The Employees' Provident Funds
Appellate Tribunal
Scope Minor, Core II, 4th Floor
Lakshmi Nagar District Centre
Lakshmi Nagar, New Delhi-110 092

2.M/s.Vidyasagar Textiles
Vedasandur
Dindigul District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the impugned order passed by the first respondent dated 14.03.2013 in ATA No.331(13)2012 and



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quash the same and direct the second respondent to pay the sum of Rs. 2,72,794/- as per the order no.TN/RO/MDU/29243/RO/Circle13/PDC/LD/2011, dated 18.08.2011.

For Petitioner : Mr.K.Muralisankar

For Respondents : No appearance

ORDER

This writ petition has been filed by the Provident Fund Organization aggrieved by an order dated 14.03.2013, passed by the learned Employees' Provident Funds Appellate Tribunal in ATA No.331(13)2012, whereby the Appellate Tribunal, by following a decision of the Honourable Apex Court in the case of ***Employees' State Insurance Corporation vs. HMT Ltd., and another***, reported in ***(2008) 3 SCC 35***, came to the conclusion that in the absence of any willful or deliberate intention of the employer to withhold the provident fund contributions, the employer cannot be mulcted with damages under Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (in short, "the Act, 1952") and thereby, reduced the damages levied against the second respondent – Establishment by 50%. It is aggrieved by the said order, the Provident Fund Organization has filed the present writ petition.



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2. It is now clear that the law laid down by the Honourable Apex Court in **HMT Ltd's** case (cited supra) is overruled by a subsequent decision of the Honourable Apex Court in the case of **Horticulture Experiment Station vs. Provident Fund Organization**, reported in **(2022) 4 SCC 516** and thereafter, a Full Bench of this Court also, in the case of **Sun Pressings (P) Ltd., vs. The Presiding Officer, EPF Appellate Tribunal, Core II & another (FB)**, reported in **2024-3-L.W.289**, having considered the said decisions of the Honourable Apex Court, considered the matter elaborately and laid down certain guidelines.

3. In the light of the above and in the light of the fact that the decision of the Honourable Apex Court in **HMT Ltd's** case (cited supra) was overruled subsequently by a decision of the Honourable Apex Court in the case of **Horticulture Experiment Station** (cited supra), the matter has to be reconsidered in the light of the law laid down by the Honourable Apex Court in the case of **Horticulture Experiment Station** (cited supra) and the guidelines laid down by the Full Bench of this Court in the case of **Sun Pressings (P) Ltd.** (cited supra).



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4. In the light of the above, the impugned order dated 14.03.2013, passed in ATA No.331(13)2012, passed by the Employees' Provident Funds Appellate Tribunal / first respondent herein, cannot be sustained and the same is quashed and the matter in ATA No.331(13)2012 is remitted back to the Employees' Provident Funds Appellate Tribunal for fresh consideration in the light of the law laid down by the Honourable Apex Court in the case of ***Horticulture Experiment Station*** (cited supra) and the guidelines laid down by the Full Bench of this Court in the case of ***Sun Pressings (P) Ltd.*** (cited supra). The learned Appellate Tribunal shall endeavour to dispose of the appeal as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a copy of this order.

5. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

25.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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MUMMINENI SUDHEER KUMAR, J.

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