
(2007) 03 MAD CK 0258

In the Madras High Court

Case No : Writ Appeal No's. 226 and 227 of 2004 and WAMP. No. 365 of 2004

Armcess Engineers (P) Ltd.

APPELLANT

Vs

The Regional Provident Fund Commissioner and The Union of
India (UOI)

RESPONDENT

Date of Decision : 28-03-2007

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 14B

Citation : (2007) 03 MAD CK 0258

Hon'ble Judges : S. Tamilvanan, J;P. Sathasivam, J

Bench : Division Bench

Advocate : Ranganatha Reddy, for King and Partridge, for the Appellant; K. Gunasekaran, ACGSC, for the Respondent

Judgement

P. Sathasivam, J.—Aggrieved by the orders of the learned single Judge dated 28.07.2003 made in W.P.Nos. 17963 of 1995 and 17962 of 1995 respectively, M/s Armcess Engineers (P) Ltd., Guindy, Madras-32, has filed the above writ appeals.

2. Heard the learned Counsel appearing for the appellant as well as the respondents.

3. In view of the limited question raised, we are of the view that it is unnecessary to traverse all the factual matrix as stated by both the parties.

4. Learned Counsel appearing for the appellant, by drawing our attention to the grievance of the appellant-petitioner as stated in para 4 of the affidavit filed in support of W.P. No. 17962 of 1995, has submitted that in view of precarious financial condition being faced by the appellant, the first respondent is not justified in ordering damages. He also contended that the learned single Judge having referred to the present financial position of the writ petitioner-appellant, ought to have substantially reduced the quantum of damages as fixed by the Regional Provident Fund Commissioner.

5. On the other hand, the learned Counsel appearing for the respondents, by drawing our attention to the statutory provisions viz., Section 14B of the Employees' Provident Funds and Miscellaneous Act, 1952 and paragraph Section 32-A of the Employees' Provident Funds Scheme 1952, submitted that the request of the petitioner/appellant cannot be acceded to and both the writ appeals are liable to be dismissed.

6. In the light of the submissions made, we have verified the factual details and the grievances as stated in the affidavit filed in support of the above writ petitions and also the statutory provisions referred to above. It is not in dispute that the contributions were not made within the prescribed time and in the event of delay or default, the authorities are entitled to recover the damages. The mode of recovery rate of penalty/damages have been prescribed in para 32 of the Employees' Provident Funds Scheme 1952. In view of the limitations prescribed in para 32-A of the Scheme and of the fact that the learned single Judge, considering the grievance of the petitioner, has already reduced the damage rate from 15% to 12%, we are of the view that no further reduction is either possible or admissible. Accordingly, both the writ appeals fail and they are dismissed. No costs. Consequently, WAMP No. 365 of 2004 is also dismissed.