

(2000) 12 CAL CK 0010
In the Calcutta High Court
Case No : Writ Petition No. 19350 (W) of 2000

Indian Drilling and Mining (Private) Ltd. and Another	APPELLANT
Vs	
Regional Provident Fund Commissioner and Others	RESPONDENT

Date of Decision : 15-12-2000

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 8B

Citation : (2001) 1 ILR (Cal) 433 : (2001) 2 LLJ 450

Hon'ble Judges : Bhaskar Bhattacharya, J

Bench : Single Bench

Advocate : Nanda Lal Nayak, for the Appellant; Samir Kumar Chakraborty, for the Respondent

Final Decision : Allowed

Judgement

Bhaskar Bhattacharya, J.—In this writ application, an employer has challenged an order dated September 20, 2000 passed by the Recovery Officer which is Annexure G to the instant writ application thereby demanding amount of interest and costs under the provision of Section 7-Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. in addition to the amount mentioned in the certificate.

2. The only question that falls for determination in this writ application is whether a Recovery Officer is vested with the authority under the aforesaid Act to impose interest on the amount mentioned in the certificate notwithstanding the fact that such interest has not been included in the certificate.

3. Sri Nayak, the learned counsel appearing on behalf of the petitioners submits that the position of a Recovery Officer under the aforesaid Act is exactly that of an executing Court and as such, unless the authority u/s 7-A of the Act has included the amount of interest in the certificate, the Recovery Officer cannot of his own add to the certificate any such amount. It appears from Section 8-B of the aforesaid Act that where the amount is in arrear u/s 8, the authorised officer

may issue to the Recovery Officer a certificate under his signature specifying the amount of arrears and the Recovery Officer, on receipt of such certificate, shall proceed to recover the amount specified therein, from the establishment or, as the case may be, the employer by one or more of the modes/ method mentioned below.

4. The aforesaid provision makes it clear that the Recovery Officer can recover only the amount specified in the certificate. The provision contained in Section 7-Q of the Act, merely, enables the authorised officer u/s 7-A of the Act to impose interest, but if such interest is not included in the certificate, it is beyond the competence of the Recovery Officer to demand such amount.

5. I, thus, set aside the order impugned as the same is without jurisdiction. The writ application is thus allowed.

6. No order as to costs.

7. Let xerox certified copy of the order, if applied for, be supplied within a week from the date of application.