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(1969) 10 MAD CK 0011

In the Madras High Court

The Ouchterlony Valley Estates (1938) Ltd. APPELLANT

Vs

The Regional Provident Fund Commissioner and Another RESPONDENT

Date of Decision : 31-10-1969

Acts Referred:

Citation : (1970) 83 LW 316 : (1970) 1 MLJ 638

Hon'ble Judges : M.M. Ismail, J

Bench : Single Bench

Judgement

M.M. Ismail, J.—This writ petition is for the issue of a Writ of mandamus directing the respondents herein to forbear from collecting

damages u/s 14-B of the Employees Provident Funds Act from the Petitioner for delayed payment of contributions under the said Act and the

scheme framed thereunder for the period May,. 1966 to July, 1966.

2. From the Very nature of the case the question whether damages should be claimed at all and, if so, what should be the quantum of the damages

is one which can be decided only after notice to the person concerned. Apart from that, Section 7-A(3) provides that no order determining the

amount due from any employer shall be made under Sub-section (1) of Section 7-A, unless the employer is given a reasonable opportunity of

representing his case. Sub-section (1) of Section 7-A states that the Central Provident Fund Commissioner, any Deputy Provident Fund

Commissioner or any Regional Provident Fund Commissioner may, by order, determine the amount due from any employer under any provision of

the Act or of the scheme, and for this propose may conduct such enquiry as he may deem necessary. The damages payable u/s 14-B of the Act is

undoubtedly an amount payable under a provision of the Act. Therefore, both section 7-A(1) and Section 7-A(3) will apply to such a case. It is

admitted before me that no opportunity as contemplated by Section 7-A(3) has been given to the petitioner in this case before making the demand

for payment of damages. On this simple ground the writ petition is allowed. The result of this will be that if the respondents want to levy damages

and claim the same from the petitioner, they will have to proceed against the petitioner after giving the opportunity contemplated by Section 7-A(3)

of the Act. There will be no order as to costs.

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