

Regional Director, Employees' State Insurance Corporation and Another

Vs

Enfield India Ltd

Civil Appeals Nos. 842-843 of 1991

(S.B. Majmudar, S.Saghir Ahmed JJ)

17.09.1997

ORDER

1. These two civil appeals arise out of a common judgment of the High a Court of Judicature at Madras allowing two writ petitions filed by the respondent-Company. The contention of the respondent-Company before the High Court was that the appellant-Corporation is not entitled to direct the respondent Company to remit the employer's and employees' contributions to the extent to which they covered the amounts of incentive bonus paid to the workmen by the said company during the relevant periods. Two different orders of the appellant- authority directing the company to pay these amounts resulted in the aforesaid two writ petitions. A Division Bench of the High Court took the view that the company was not liable to remit either the employer's or employees' contributions so far as the incentive bonus paid to the employees was concerned as according to the High Court it did not form part of wages. The aforesaid judgment of the High Court was rendered on 13-10-1982. By grant of special leave to appeal, the present appeals are filed by the appellant Corporation.

2. Now, in the meantime, this Court has finally resolved this controversy. The two decisions of this Court which have a direct bearing on the controversy between the parties may be noted. In Harihar Polyfibres v. Regional Director ESI Corpn. [(1984) 4 SCC 324 : 1984 SCC (L&S) 747] a Bench of two learned Judges of this Court speaking through O. Chinnappa Reddy, J. held that "wages" as defined by Section 2(22) of the Employees' State Insurance Act, 1948 (hereinafter to be referred to as "the Act") would include amongst others incentive allowances paid to the workmen. A. N. Sen, J. in his supplementary judgment also took the same view. There is a later decision of this Court in the case of Modella Woollens Ltd. V. ESI Corpn. [1994 Supp (3) SCC 580 : 1995 SCC (L&S) 164] which has ruled that production bonus is also covered by the term "wages" as defined by Section 2(22) of the said Act. In view of this settled legal position, therefore, these appeals are allowed. The impugned judgment and orders of the High Court in the aforesaid two writ petitions are set aside and the writ petitions filed by the respondent before the High Court are dismissed. In view of the present decision of ours, whatever recovery has to be effected by the appellant-Corporation regarding employer's and employees' contributions concerning the disputed incentive bonus will have to be effected keeping in view the relevant Rules and Regulations governing the computations of such contributions for the relevant periods for which such contributions are demanded. In the facts and circumstances of the case, there will be no order as to costs.