

(2017) 01 SC CK 0068

Supreme Court Of India

Case No: Civil Appeal No. 96-97 of 2017 (@ Special Leave Petition (C) Nos. 1879-1880 of 2015)

Assistant Provident Fund
Commissioner, EPFO

APPELLANT

Vs

Management of RSL Textiles
India Pvt. Ltd. Thr. Its Director.

RESPONDENT

Date of Decision: Jan. 3, 2017

Acts Referred:

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

Citation: 2017 AIR(SCW) 679 : AIR 2017 SC 679 : (2017) 2 CLR 243 : (2017) 153 FLR 214 : (2017) 1 JT 460 : (2017) LabLR 337 : (2017) 1 LawHeraldSC 322 : (2017) LIC 928 : (2017) 2 Scale 33 : (2017) 3 SCC 110 : (2017) 1 SCCLS 543 : (2017) 2 WLN 39

Hon'ble Judges: Kurian Joseph, J; Rohinton Fali Nariman, J

Bench: Division Bench

Advocate: T. Harish Kumar, Navneet Dugar, Advocates, for the Respondents; Amit Tyagi, M. Yogesh Kanna, Advocates, for the Appellants

Final Decision: Dismissed

Judgement

Kurian, J. - Leave granted.

The appellants are before this Court, aggrieved by the final impugned Judgment and order dated 13.11.2013 in Writ Appeal No. 1639 of 2011 in Writ Petition No. 9850 of 2010 and Writ Appeal No. 1640 of 2011 in Writ Petition No. 26957 of 2010 passed by the High Court of judicature at Madras.

2. The High Court has taken a view that in the absence of a finding regarding mens rea/actus reus on the part of the employer, action under Section 14B of the Employee's Provident Fund and Miscellaneous Provisions Act, 1952 cannot be sustained.

3. This issue is now wholly covered against the appellants in the decision rendered by this Court in **Mcleod Russel India Limited v. Regional Provident Fund Commissioner, Jalpaiguri and Others, reported in, (2014) 15 SCC 263**, wherein it has been held in paragraph 11 that ".....the presence or absence of mens rea and/or actus reus would be a determinative factor in imposing damages under Section 14-B, as also the quantum thereof since it is not inflexible that 100 per cent of the arrears have to be imposed in all the cases. Alternatively stated, if damages have been imposed under Section 14-B, it will be only logical that mens rea and/or actus reus was prevailing at the relevant time."

4. In the impugned Judgment, at paragraph 23, it has been specifically held by the High Court that "In this case, there is no finding rendered by the original authority or the appellate authority with regard to mens rea or actus reus, except saying financial crises cannot be a reason to escape."

5. In view of the above, these appeals are dismissed.

6. No costs.