

HIGH COURT OF CHHATTISGARH, BILASPUR

WPL No. 106 of 2015

- M/s District Marketing Officer Mahasamund Chhattisgarh State Cooperative Marketing Federation Limited, Raipur Through: District Marketing Officer Mahasamud (Chhattisgarh)

---- Petitioner

Versus

1. Employees Provident Fund Appellate Tribunal, New Delhi, Scope Minar, Core- II, 4th Floor, Laxmi Nagar, District Centre, Laxmi Nagar, New Delhi 1100 92.
2. Assistant Provident Fund Commissioner, Office Of Employees Provident Fund Organization, Regional Office, Indira Gandhi Vyavasaik Parisar, Pandri, Raipur (Chhattisgarh)

---- Respondent

For Petitioner
For Respondents

Shri Ajay Kumar Dwivedi, Advocate
Shri Pradeep Saxena, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

13/08/2015

1. With the consent of the learned counsel for the parties, the matter is heard finally.
2. The petitioner has preferred this writ petition against the interim order passed by the appellate authority under Employees Provident Fund and Miscellaneous Provisions Act, 1952 (in short "the Act, 1952"). By the said order, the Appellate Authority has directed the petitioner to deposit the amount assessed under Section 7Q of the Act, 1952 as a precondition for staying the recovery of the amount assessed against

him under Section 14-B of the Act, 1952.

3. Mr. Dwivedi, learned counsel for the petitioner, places reliance on the order passed by the Supreme Court on 05.04.2010 in SLP (Civil) No.13320/2008 (**M/s. Shiv Harbal Res. Laboratory vs. Assistant P.F. Commr.**), to contend that since an order passed under Section 7Q of the Act is not appealable, the appellate authority may not impose the condition to deposit the amount assessed in the said order, against which, the appeal has not been preferred.
4. Mr. Saxena, learned counsel for the respondents appearing on advance notice, would submit that if an appeal is not preferred against the amount of interest assessed against the petitioner under Section 7 Q of the Act, 1952, the petitioner would still be liable to pay that amount, as the same is not under challenge before any Court.
5. Having heard learned counsel for the petitioner and having perused the relevant provisions contained under Sections 7 A, 7 I, 7 O and 7 Q of the Act, 1952 and the order passed by the Supreme Court in the matter of **M/s. Shiv Harbal (Supra)**, it appears that the petitioner has been assessed to pay damages under Section 14 -B of the Act, 1952 and at the same time also been assessed to make payment of interest under Section 7 Q of the Act, 1952, as the petitioner had failed to make deposit of the Provident Fund Contributions for the period from March, 2006 to March, 2014 together with default in depositing the Pension Fund Contributions, Deposit Linked Insurance Scheme Contributions and the Administration Charges thereon.
6. The petitioner has preferred an appeal under Section 7 I of the Act, 1952 to challenge the imposition of damages under Section 14 B of

the said Act. While hearing the petitioner's application for grant of stay, the appellate authority, while staying the recovery of the amount of deposit assessed against the petitioner under Section 14-B, has directed him to deposit the amount of interest assessed against him under Section 7 Q of the Act, 1952. Since no appeal is preferred by the petitioner against that part of the order imposing interest under Section 7 Q of the Act, 1952, it was not appropriate for the appellate authority to direct the petitioner to deposit the amount assessed in the said part of the order, against which, the appeal has not been preferred.

7. For the foregoing, since the petition is directed against an interim order, it is disposed of with a direction to the appellate authority to consider and decide the appeal on its own merits at the earliest preferably within a period of 3 months from today. During the pendency of petitioner's appeal, the said part of the order directing the petitioner to deposit the amount of interest assessed against him under Section 7 Q of the Act, 1952 shall remain in abeyance.

Sd/-

Judge

(Prashant Kumar Mishra)