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HIGH COURT OF CHHATTISGARH, BILASPUR**WPL No. 165 of 2012**

M/s Holy Cross Girls Higher Secondary School Post Gholeng
Dist. Jashpur C.G. Thru Principal Sister Lucina C.G.

---- Petitioner**Versus**

1. Employees Provident Fund, Appellate Tribunal New Delhi, Scope Minar, Core-II, 4th Floor, Laxmi Nagar, Dist. Centre, Laxmi Nagar, New Delhi, Post Office Laxmi Nagar Pin 110092
2. Asst. Provident Fund Commissioner, Office of Employees Provident Fund Organization, Regional Office, Indira Gandhi Vyavasaik Parisar, Pandri, Raipur C.G.

---- Respondents

For Petitioner	:	Mr. N.K. Vyas, Advocate.
For Respondents	:	Mr. Pradeep Saxena, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****02/11/2015**

(1) With the consent of the learned counsel appearing 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 40% of damage assessed under Section 7Q of the Act, 1952 as a precondition for staying the recovery of the amount against him under Section 14-B of the Act, 1952.

(3) Mr. Vyas, learned counsel for the petitioner, placed 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 40% of the amount assessed in the said order, against which, the appeal has not been preferred.

(4) Mr. Saxena, learned counsel appearing for the respondents would submit that if an appeal is not preferred against the amount of interest assessed against the petitioner under Section 7Q 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 appearing for the petitioner and having perused the relevant provisions contained under Sections 7A, 7 I, 7O 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 April, 1982 to November, 2000 together with default in depositing the Pension Fund Contributions, Deposit Linked Insurance Scheme Contributions and the Administrative 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 40% of damages amount & interest under Section 7 Q & 14 B of the Act, 1952. Learned counsel appearing for both the parties would jointly submit that this matter is squarely

covered with the order dated 13.08.2015 passed by the Co-ordinate Bench of this Court in W.P. (L) No. 106/2015.

(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 three months from today. During the pendency of petitioner's appeal, the said part of the order directing the petitioner to deposit 40% of assessed amount shall remain in abeyance for three months.

Sd/-

(Sanjay K. Agrawal)

Judge