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| M/s. DKI Apparel Private Limited<br>Vs.<br>Central Board of Trustees (Central Board)<br>through Assistant Provident Fund Commissioner<br>and another | ...<br><br><br><br><br>... | Petitioner<br><br><br><br><br>Respondents |
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**CORAM : R. G. KETKAR, J.**  
**DATE : 20<sup>TH</sup> FEBRUARY, 2015**

Heard Mr. Vaidya, learned Counsel for petitioner and Mr. Suresh Kumar, learned Counsel for respondents at length. Rule. Mr. Suresh Kumar waives service for respondents. At the request and by consent of the parties, rule is made returnable forthwith and the Petition is taken up for final hearing.

**1/3**

Review Petition filed by petitioner against the order dated 01.12.2014 was rejected by order dated 19.01.2015.

3. Mr. Vaidya submitted that aggrieved by these orders, the petitioner has preferred Appeal before the Employees Provident Fund Appellate Tribunal, New Delhi. He states that the Appellate Tribunal is vacant and consequently, it cannot be moved for obtaining interim relief. He further submitted that the controversy in the present case relates to coverage of the apprentice under the provisions of the Act. According to him, the apprentices employed by the petitioner are not covered by the Act. On the other hand, Mr. Suresh Kumar submitted that there are the employees of the petitioner and consequently, are covered by the provisions of the Act.

4. As noted earlier, the post of Appellate Tribunal is vacant. It is not possible to decide this controversy, more so when the appeal preferred by the petitioner is pending before the Appellate Tribunal.

5. Mr. Vaidya submits that without prejudice to the rights and contentions of the petitioner, within 4 weeks from today, petitioner will pay Rs.15,00,000/- to the respondents and the said payment may be made subject to the outcome of the Appeal.

6. In view of the peculiar facts and circumstances of the present case, the petition is disposed of in the following terms:

- a. Petitioner shall pay Rs.15 lacs to the respondents within 4 weeks from today. Upon payment of Rs.15 lacs, the interim relief application filed by the petitioner seeking interim relief as also the application filed under Section 7Q for waiver of pre-deposit shall stand disposed of;

- b. Respondents shall not take any coercive step against the petitioner upon payment of Rs.15 lacs;
  - c. While deciding the appeal, the Tribunal will pass appropriate orders in relation to Rs.15 lacs paid by the petitioner. In case the petitioner succeeds in the appeal, respondents No.1 and 2 will refund the amount together with interest at such rate as may be specified by the Tribunal;
  - d. All the contentions of the parties on merits are expressly kept open.
7. Rule is made absolute in the aforesaid terms.

**(R. G. KETKAR, J.)**

*Minal Parab*