

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.1819 of 1996
Date of decision: 18.12.2015**

M/s Sirocco Pressings Pvt. Ltd. & anr. ... Petitioners

Versus

The Regional Provident Fund Commissioner & anr. ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. A.P. Bhandari, Advocate,
for the petitioners.

None for the respondents.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

Mr. A.P. Bhandari, learned counsel for the petitioners has pointed out to a decision of the Division Bench of this Court in the case of the petitioners itself in CWP No.392 of 1994 decided on February 6, 2013 where this Court held that there is no specific rational in imposing damages for different periods of defaults in contributions under the Employees' Provident Fund & Misc. Provisions Act, 1952 read with the schemes framed thereunder. The Court observed as follows:-

“Thus, going by the spirit of the aforesaid Clause 32-A of the Employees Provident Scheme, 1952 as well as ratio of the judgment in case M/s K.Streetlite Electric Corporation (supra), we modify the impugned orders passed by the Regional Provident Fund Commissioner by confining the damages to the extent of 25%

uniformly. With these observations, the writ petitions are disposed of.

The Division Bench relied upon the dicta in **M/s K.Streetlite Electric Corporation v. Regional Provident Fund Commissioner, Haryana**, AIR 2001, Supreme Court 1818, where imposition of damages under Section 14-B at the flat rate of 25% per annum could be levied though it was not binding. This petition also relates to the proceedings under Section 14-B of the Act and would be covered by the aforesaid verdict. In the index to the petition, the petitioners have relied on a similar matter pending in CWP No.18575 of 1995 titled as **Manohar Lal v. Punjab State Electricity Board and ors.**, which was admitted on August 30, 1995. This petition has been disposed of along with CWP No.392 of 1994 (supra) by passing the following order:-

“Learned counsel for the petitioner has submitted that he has been unable to contact the petitioner. Learned counsel has further submitted that in view of para Nos. 9 and 12 of the reply filed by the respondents, this petition might have been rendered infructuous due to lapse of time.

Accordingly, this petition is dismissed as having been rendered infructuous. However, in case any cause of action still survives to the petitioner, he would be at liberty to seek revival of the petition.”

Having heard Mr. Bhandari, and perused the paper-book, I would agree with him that this matter indeed is covered by the order in the petition relied on. The present writ petition is accordingly disposed

of in the same terms.

However, by word of caution, just in case the respondent-RPFC is still aggrieved by this order, it is at liberty to move an application for rehearing of the matter. Mr. Bhandari points out that RPFC was heard when the Division Bench passed the order in the case of the petitioner company, though it related to a different period of alleged default in payment of contributions, but the principle remains the same and make hardly any difference to the net result.

(RAJIV NARAIN RAINA)
JUDGE

18.12.2015
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