IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
CWP No. 10662 of 2010
Date of Decision: May 6, 2015

Seth Murlidhar Dalmia Charitable Trust
.... Petitioner
Versus
Presiding Officer, Employees Provident Fund, Appellate Tribunal, New Delhi and others
.... Respondents
CWP No. 10667 of 2010

Purni Devi Dalmia Charitable Trust
.... Petitioner
Versus
Presiding Officer, Employees Provident Fund, Appellate Tribunal, New Delhi and others
.... Respondents
CWP No. 10685 of 2010

Seth Gajanand Dalmia Charitable Trust
.... Petitioner
Versus
Presiding Officer, Employees Provident Fund, Appellate Tribunal, New Delhi and others
.... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. P. K. Mutneja, Advocate and
Mr. Vivek Salathia, Advocate
for the petitioner.

Mr. Rajesh Hooda, Advocate
for respondent No.2.

****

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

<u>Amit Rawal, J (Oral)</u>

This order of mine shall dispose of the aforementioned three writ petitions.

The writ petitions have been filed on behalf of the petitioner whereby the impugned order dated 10.12.2002 (Annexure

P-7) and 5.4.2010 (Annexure P-9) passed under Section 7-A of the Employees Provident Fund & Miscellaneous Provisions Act, 1952 (herinafter called as 'the Act') have been challenged.

Mr. P. K. Mutneja, learned counsel appearing on behalf of the petitioner submits that prior to initiation of the assessment proceedings the Enforcement Officer visited the premises of the petitioner and gave a report Annexure P-6 that all the three Charitable Trusts are separate and have distinct entities and they have been registered on different dates.

He further submits that as per the said report even the Permanent Income Tax Accounts have been alleged to be separate and all the three trustees are rendering free Medical service to general public in different disciplines and are charging only nominal charges. He further submits that even the notice sent by the Assessment Officer was not in consonance with law as it was sent to Dalimia Charitable Trust which is neither the trust nor have any legal entity.

He further brought to the attention of this Court that the order of assessment dated 10.12.2002 whereby the assessing authority by treating all the three charitable trust as one unit held that the petitioners are liable to contribute the provident fund as per provisions of Section 6 of the Act.

He further submits that against the order of assessment the petitioners have filed three separate appeals before the appellate authorities. However, the appellate authorities while deciding the appeals has not assigned any reason being a quasi judicial authority.

Mr. Rajesh Hooda, learned counsel appearing on behalf of respondent No.2 submits that the order of assessment is in consonance with law and Acts and the Assessing authority has passed the order while taking into consideration that unity and financial integrity of work is common and therefore the order is fair, legal and justified and not required to be interfered with.

I have heard learned counsel for the parties and perused the paper book.

It is a matter of record that the order of Assessment Officer is totally opposite to the report of the Enforcement Officer. Be that as it may, the fact that the petitioner had challenged the order of assessment by filing statutory appeal under the Act.

The appellate authority has not passed the order by giving any reason, much less cogent reason. The order has not dealt with the individual grounds of appeals taken by the petitioner. Though, the appellate authority found that the notice was not sent on proper address but yet has not given any reason how the notice was to be served and manner and mode of sending the notice.

The appellate authority has also not dealt with specific grounds taken by the petitioner for non-compliance of sub section 3 and 7-A of the Act. Since the appellate authority has not discharged the obligation as enshrined under Section 7-A, I deem it appropriate to set aside the orders dated 10.12.2002 (Annexure P-7) and 5.4.2010 (Annexure P-9) and remand the matter back to the Appellate Authority to decide the appeal of the petitioner afresh in accordance with law by giving a detailed and reasoned order after dealing with the points of determination/grounds taken by the petitioner in the grounds of appeal.

It is expected that the appellate authority shall decide the appeal afresh as expeditiously as possible preferably within a period of six months from the date of receipt of certified copy of this order.

With the aforementioned observations, all the writ petitions are disposed of.

Parties are directed to appear before the appellate authority on 9.7.2015.

(AMIT RAWAL)
JUDGE

May 6, 2015
archana