IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17156 of 2010
Date of decision: 29.10. 2015

M/s U.S. Callnet … Petitioner

Versus

Employees' Provident Fund Appellate Tribunal & ors. ... Respondents

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

Present: Ms. Harpriya Khaneka, Advocate, for the petitioner.

Mr. Rajesh Hooda, Advocate, 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)

The sum total of the work done by the Presiding Officer, Employees' Provident Fund Appellate Tribunal, New Delhi in ATA No.29 (11) 2009 reads as follows:-

ORDER
Dated: 31st May, 2010

Present: Shri N.K. Basil, Advocate for the appellant.

Shri S.K. Pandey, Advocate for the respondent.

The appeal in this case is preferred against the order passed by the PF authority under Section 7A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 directing the appellant to deposit the dues.

2. The case of the appellant is that the appellant is a company registered under the Companies Act and appellant was covered under in the year 2006, the EPF authority included the excluded employees but the appellant deposited the dues. The EPF authority started a proceeding under Section 7-A and EPF assessed the dues by including the excluded employees.

3. The case of the respondent is that the

appellant engaged more than 20 persons but had not extended the benefit of EPF Act to all the eligible employees. So the assessment was made correctly.

4. It is contended that most of the employees were receiving salary more than Rs.6,500/-. So the appellant is not liable to pay for them and reliance is placed on Annexure-A.

5. The Ld. Advocate for the respondent supported the order.

6. Annexure-A reveals that allowances are included in the salary as a result the employees received the salary more than Rs.6,500/-. The allowances should not have been included in the basic wages as basic wages does not include the allowances and no other document is filed to show that the excluded employees who is drawing Rs.6,500/- as basic wages was included while assessing the dues. No infirmity is noticed in the order of the authority.

7. Hence ordered, the appeal is dismissed. Copy of order be sent to the parties. File be consigned to record room.

Sd/-
(Srikanata Nayak)
Presiding Officer

To say the least, the order is bereft of reasons and even the basic provisions of the Act involved of excluded employees has not been discussed in the context of facts, which were before the Assessing authority while passing the order under Section 7-A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. The order does not pass the test of an appellate order from where this Court can examine what precisely has weighed in the mind of the appellate authority in passing the sketchy order, which is most unsatisfactory work and leaves this Court with no other option except to set aside the order and remand the case back to the Employees' Provident Fund Appellate Tribunal, New Delhi, to pass fresh order in accordance with law after weighing the evidence and the position of the law applicable. Accordingly, the writ petition is allowed and the case is remanded to Employees' Provident Fund Appellate Tribunal, New Delhi. The parties to appear before the Employees' Provident Fund Appellate Tribunal, New Delhi, on 14.12.2015.

(RAJIV NARAIN RAINA)
JUDGE

29.10.2015
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