

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CWP No.12973 of 2015 (O&M)

Date of decision: 29.07.2015

M/s Arun Bhatta Co.

... Petitioner

Vs.

The Presiding Officer and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

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

Present:- Mr. Jatinder Nagpal, Advocate, for the petitioner.

**AMIT RAWAL J. (Oral)**

**C.M.No.9001 of 2015**

The application is allowed, subject to all just exceptions.

Documents Annexures P-4 and P-5 are taken on record.

**CWP No.12973 of 2015**

Mr. Jatinder Nagpal, learned counsel appearing on behalf of the petitioner submits that in pursuance to order passed under Sections 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, the petitioner had deposited a sum of ₹ 12,83,724/- in the month of June, 2012 and the Provident Fund Commissioner initiated the proceedings under Sections 7Q and 7B of the Act in September, 2014 when the brick kiln of petitioner was not in operation as the same was in operation for the limited period only i.e. from February to June, therefore, it did not receive notice dated

11.09.2014, Annexures P1 and P2. Prior to passing of the order under Section 7Q of the Act, the petitioner only received one notice in the month of March, 2014 and some part time Consultant was deputed to look into the matter and as per information provided by part time Consultant, matter was sent to the record room. Therefore, the petitioner was under impression that the aforementioned proceedings came to a logical end. It is also submitted that in the meantime, the petitioner suffered heart attack and therefore, could not represent himself before the authority and even the orders dated 11.09.2014, Annexures P1 and P2 have been sent at the work place, i.e., at the address of the brick kiln which was lying closed and was opened only in the month of February, 2015. It is stated that most of the brick kiln come into operation in the month of February and the petitioner acquired the knowledge of the aforementioned order in the month of February, 2015 and filed an appeal on 26<sup>th</sup> February, 2015, however, the same has been dismissed on the ground of delay as the same had to be filed within 60 days of the issue of the order. It has been submitted that instead of filing separate application for condonation of delay, delay part had been incorporated in paragraph No.5 of the grounds of appeal which fact has not been noticed by the Appellate Authority.

I have gone through the grounds of appeal as well as facts and found that facts which are pleaded in the appeal are duly supported by an affidavit. It is a matter of record that the brick kiln

works for a limited period only and the Provident Fund Commissioner does not appear to have resorted to the compliance of principles of natural justice by sending a notice at the residential address of the petitioner instead addressed at the work place. Though the same was dealt with by the petitioner by deputing a consultant but the information provided by the consultant was otherwise than what the order conveyed. Even order dated 11.09.2014 came to the knowledge in the month of February, 2015 and after acquiring the knowledge, appeal was filed.

Keeping in view the aforementioned facts and circumstances of the case, I am of the considered view that the Presiding Officer, Employees Provident Fund Appellate Tribunal, New Delhi should have decided the appeal on merits instead of pondering upon the issue of delay and laches or should have looked into grounds, particularly grounds raised in the appeal. Accordingly, order dated 01.06.2015, Annexure P-3 is set aside and matter is remitted back to the EPFAT, New Delhi for deciding the appeal afresh on merits as the grounds raised in the appeal seeking condonation of delay are just, fair and legal, as expeditiously as possible preferably within a period of 04 months from the date of receipt of certified copy of this order, therefore, delay, if any, is condoned.

Writ petition is accordingly allowed.

**July 29, 2015**  
savita

**(AMIT RAWAL)**  
**JUDGE**