IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.2640 of 2012
Date of Decision: July 30, 2015

Regional Provident Fund Commissioner, Chandigarh

...Petitioner

Versus

M/s Ranbro Brakes India Limited, Village Alamgir near Lalru, District Mohali & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.Ajay Singla, Advocate,
for the petitioner.

Mr.Sanjeev Gupta, Advocate,
for respondent No.1.

*****

AMIT RAWAL, J. (Oral)

The challenge in the present writ petition is to the order dated 1.9.2011 (Annexure P-3), whereby the Employees' Provident Fund Appellate Tribunal, New Delhi (for short "the Tribunal") remanded back the matter to the EPF Authority to assess the liability @ 17% (inclusive of interest). The parties have been directed to appear before the authority to place the case, failing which the Authority shall decide the matter as per law.

The contention is that the Tribunal has not appreciated the facts and the legal position because as per the provisions of Paragraph 32 of the

Employees' Provident Fund Scheme, 1952, damages can be recovered. It has been further submitted that the Tribunal has wrongly rejected the plea of the appellant to assess the liability @ 17% keeping in view the fact that there was a financial difficulty and the establishment was sick industry and the provisions of the SICA Act would not apply for the purpose of contribution, including EPF & ESIC dues, much less, gratuity.

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

The case pertains to the year 2012 and the same is pending adjudication since then.

The Presiding Officer of the Employees' Provident Fund Appellate Tribunal in the impugned order (Annexure P-3) has remanded back the matter to the EPF Authority by limiting the authority to assess the liability @ 17%. The contention is that the provisions of Section 22 of the Sick Industrial Companies (Special Provisions) Act would not apply and, therefore, the Tribunal could not limit the liability to the amended provisions caused in Para 32 (supra).

Be that as it may, the order of the Presiding Officer is upheld, however, the authority, while assessing the liability, would take into consideration the amended and unamended provisions of Para 32 of the Employees' Provident Fund Scheme, 1952 and would not be swayed by the directions contained in the impugned order limiting the liability @17%. The respondent industry would also be at liberty to raise all the points in support of their case in accordance with law.

It is expected that the EPF Authority would decide the matter as expeditiously as possible, preferably within a period of five months after issuing notice to the parties concerned, much less, in accordance with law.

The writ petition stands disposed of.

July 30, 2015 **(AMIT RAWAL)**
ramesh **JUDGE**