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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: September 09, 2015

+ **W.P.(C) 8669/2015**

GAURAV ENTERPRISES Petitioner
Through: Mr. Manish Malhotra, Advocate

versus

REGIONAL PROVIDENT FUND COMMISSIONER
..... Respondent
Through: Mr. R.C. Chawla, Advocate

**CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR**

JUDGMENT
(ORAL)

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CM APPLN.18964/2015 (Exemption)

Allowed subject to all just exceptions.

W.P.(C) 8669/2015 & CM APPLN.18963/2015 (Stay)

While entertaining petitioner's appeal under *The Employees' Provident Funds and Miscellaneous Provisions Act, 1952*, Appellate Tribunal vide order of 9th July, 2015 (*Annexure P-1*) had directed petitioner to deposit 50% of the assessed amount as a pre-condition for hearing of the Appeal. Petitioner could not comply with the aforesaid order (*Annexure P-1*) and had sought rectification of the aforesaid order which stands dismissed by the learned Appellate Tribunal vide order of

4th September, 2015 (*Annexure P-3*) holding that there is no mistake apparent on the record and the Tribunal is not empowered to recall order of 9th July, 2015.

At the hearing, learned counsel for petitioner submits that due to financial difficulty, petitioner could not comply with the aforesaid order (*Annexure P-1*) and now petitioner is in a position to comply with the order (*Annexure P-1*) and so, petitioner's appeal ought to be decided on merits.

Upon hearing and on perusal of the impugned orders and the material on record, I find that due to financial difficulty, petitioner could not comply with the order (*Annexure P-1*) and now petitioner is ready to comply with the order (*Annexure P-1*) within a period of four weeks from today. Therefore, the impugned order dismissing petitioner's appeal in default is set aside with permission to petitioner to deposit 50% of the assessed amount within a period of four weeks from today. Upon deposit of the 50% of the assessed amount, petitioner's appeal (*Annexure P-4 colly.*) be decided with expedition.

With aforesaid direction, this petition is disposed of.

Copy of this order be given *dasti* to learned counsel for petitioner.

(SUNIL GAUR)
JUDGE

SEPTEMBER 09, 2015

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