

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 3456 OF 2015

(The Central Board of Trustees and another vs. M/s. Janak Ginning and Pressing and others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri H.N. Verma, Advocate for the petitioners.
Shri A.J. Pathak, Advocate for the respondent nos. 1
and 2.

CORAM : SMT. VASANTI A NAIK, J.

DATED : OCTOBER 10, 2016

By this writ petition, the petitioners challenge the order of the Employees Provident Fund Appellate Tribunal, dated 16/10/2014, allowing the appeal filed by the respondent nos.1 and 2 and setting aside the order of the petitioners, dated 6/8/2013 under Section 1(3)(a) of the Employees Provident Fund and Miscellaneous Provisions Act, 1952.

Shri Verma, the learned Counsel for the petitioners, states that the Tribunal did not have the jurisdiction to entertain the appeal filed by the respondent nos.1 and 2. It is stated that the document dated 6/8/2013, which the Employees Provident Fund Appellate Tribunal has considered to be an order under Section 1(3)(a) of the Act, is not an order under the said provision, but is merely a coverage notice. It is stated that the respondent nos.1 and 2 would be entitled to object to the said notice and give their say, so that an enquiry in regard to the applicability of the Act to the

industry of the respondent nos.1 and 2 could be conducted.

Shri Pathak, the learned Counsel for the respondent nos.1 and 2, states that an order under Section 1(3)(a) of the Act is appealable, but since a statement is made on behalf of the petitioners that the communication dated 6/8/2013 is not an order under Section 1(3)(a) of the Act and is merely a coverage notice and the respondents would be granted a fair opportunity to raise their objection and after conducting an enquiry, appropriate order would be made, the respondent nos.1 and 2 would have no grievance.

In view of the statements recorded hereinabove and on a reading of the impugned order, it appears that the order is based on an assumption that the communication dated 6/8/2013 is an order under Section 1(3)(a) of the Act. Since the grievance of the respondent nos.1 and 2 stands redressed in view of the statements made on behalf of the petitioners and since it appears that the communication dated 6/8/2013 is merely a coverage notice and further enquiry would be conducted by the petitioners in the matter of applicability of the provisions of the Act to the industry of the respondent nos.1 and 2, it would be necessary to dispose of the writ petition by setting aside the impugned order.

Hence, the writ petition is allowed. The impugned order is set aside by accepting the statements made on behalf of the petitioners, that would be binding upon the petitioners. The respondent nos.1 and 2 are

free to make submissions and raise objections to the notice, which the petitioners may be entitled to decide in accordance with law.

Order accordingly. No costs.

JUDGE

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