

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(204)

**CWP No. 10542 of 2010
Date of Decision: 20.09.2016**

M/s Akash Founders and Engineers

.....Petitioner(s)

Versus

Presiding Officer, Employees Provident Fund and Another

.....Respondent(s)

**CWP No. 10624 of 2010
Date of Decision: 20.09.2016**

M/s Friends Engineering Corporation Private Limited

.....Petitioner(s)

Versus

Presiding Officer, Employees Provident Fund and Another

.....Respondent(s)

**CWP No. 11122 of 2010
Date of Decision: 20.09.2016**

M/s Feco Industries

.....Petitioner(s)

Versus

Presiding Officer, Employees Provident Fund and Another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: - Mr. Vivek Salathia, Advocate
for the petitioners.

Mr. Rajesh Hooda, Advocate
for respondent No. 2.

P.B. BAJANTHRI, J. (Oral)

CWP Nos. 10542, 10624 and 11122 of 2010 are being disposed of by this common order. For the purpose of facts of the case, CWP No. 10542 of 2010 is taken.

The petitioner-M/s Friends Engineering Corporation Private Limited was established in the year 1970 as a partnership and in the year 1985 it was incorporated as private limited company. In the meanwhile M/s Feco Industries and M/s Akash Founders and Engineers were established in the year 1973 and 1982, respectively.

On 22.06.1989, three officers from Provident Fund Department inspected all the three companies which were in the common premises. During the inspection they have found that all the three companies were established in common premises and list of employees and their wages have been taken note of and the same was attested by the representatives of the respective companies. To that extent a report was submitted by means of a communication dated 11.08.1989 to the Regional Provident Fund Commissioner, Amritsar.

On 17.11.2003, the Assistant Provident Fund Commissioner, Amritsar proceeded under Section 7-A of the E.P.F. Act and assessed the dues as Rs. 5, 86, 756/-, since the petitioner failed to cooperate in the proceedings competent authority proceeded with ex-parte. Feeling aggrieved by the order passed under Section 7-A of the E.P.F. Act by the Assistant Provident Fund Commissioner appeal was preferred before the Appellate Tribunal. On 19.05.2010, the Appellate Tribunal affirmed the order of the Assistant Provident Fund Commissioner dated 17.11.2003. Thus the present writ petition has been filed.

Learned counsel for the petitioners submitted that Section 7-A proceedings are ex-parte proceeding. If he is given an opportunity, he will adduce necessary materials and evidence that petitioners are not liable to pay dues etc.

Having regard to fact that it was an ex-parte proceedings, the matter is required to be remanded to Assistant Provident Fund Commissioner. Annexures P-4 and P-5 dated 17.11.2003 and 19.05.2010 respectively are set aside and remanded to the competent authority subject to petitioners' depositing 50% of the assessed amount of Rs. 5, 86, 756/- and remaining 50% of the amount petitioners are directed to furnish bank guarantee within a period of two months from today. The competent authority is directed to commence Section 7-A proceedings afresh on 07.11.2016, the date on which the petitioners or their representative and representative of respondents be present in the Section 7-A proceedings. The petitioners are directed to cooperate by adducing necessary materials in Section 7-A proceedings and competent authority is requested to complete proceedings by first week of January, 2017 and communicate decision to the petitioners.

Accordingly, all the three Civil Writ Petitions are disposed of.

(P.B. BAJANTHRI)
JUDGE

20.09.2016
sahil soni

Whether Speaking/Reasons:	Yes/No
Whether Reportable:	Yes/No