

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

**CWP No.21318 of 2010
Date of Decision: 05.08.2016**

M/s F.C. Sondhi & Co. (India) Private Limited

..... Petitioner

Versus

**The Presiding Officer, The Employees Provident Fund Appellate
Tribunal, New Delhi and others**

..... Respondents

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

Present: Mr. K. S. Kang, Advocate
for the petitioner.

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

P. B. BAJANTHRI J. (ORAL)

In the present petition, the petitioner has questioned the order dated 05.09.1984 vide Annexure P-10 and order dated 30.06.2010 vide Annexure P-13. The petitioner-company was established in Jalandhar City in the year 1960 dealing with the Sports goods. During the period from 01.04.1981 to 31.03.1982, the total wages, salaries and benefits paid by the petitioner to the staff and workmen comes to Rs.53.33 lacs. Discrepancies was noticed by the Inspectorate staff of the respondent company relate to an amount of Rs.13.11 lacs. They found that there were discrepancies in respect of engaging services of the workers in the industry as well as workers who take goods from the petitioner to their homes and after finishing their goods, the same were delivered. The wages were paid to them. In this regard, necessary material was not placed for the purpose of assessment. Therefore, respondent-department proceeded under Section 7-A of the EPF Act. On 05.09.1984, after giving

certain findings on the issues, it was further ordered that as under:

“In view of the above proceedings for assessment of the Provident Fund dues will continue and for this purpose establishment is directed to produce the relevant records on 01.11.1984 at 11.00 a.m. at Amritsar”.

Petitioner instead of furnishing the relevant records before the Regional Provident Fund Commissioner, Chandigarh, he assailed the order dated 05.09.1984 before this Court in CWP No.739 of 1985 and obtained interim order dated 17.05.1985. Thereafter on 06.02.2003, CWP No.739 of 1985 was withdrawn in order to approach the Appellate Tribunal. Appeal was submitted before the EPF Appellate Tribunal in the year 2003. The same was disposed of on 30.06.2010. Appellate Tribunal upheld the decision of the Commissioner and appeal was dismissed.

Feeling aggrieved by the order dated 05.09.1984 and 30.06.2010, the present petition has been filed.

Regional Provident Fund Commissioner while invoking Section 7-A of the EPF Act given certain findings and thereafter requested the establishment to produce the relevant records on 01.11.1984. The petitioner instead of furnishing relevant records on 01.11.1984, he has approached this Court in CWP No.739 of 1985 and obtained an interim order dated 17.05.1985 and it was withdrawn on 06.02.2003 and filed the appeal before the Appellate Authority.

The Appellate Authority could not entertain the appeal for the reasons that the final order under Section 7-A of the EPF Act was yet to be passed as is evident from the order dated 05.09.1984.

In view of these facts and circumstances, Appellate Authority's order dated 30.06.2010 is set aside and the matter is remanded back to Regional Provident Fund Commissioner to proceed further from the stage of the order dated 05.09.1984. Before proceeding further, the department is directed to issue a communication to the petitioner stating which are the documents required for the purpose of completion of Section 7-A proceedings. Thereafter, the petitioner is directed to furnish relevant/requisite records before the Regional Provident Fund Commissioner. If such records are made available to the Regional Provident Fund Commissioner, he is directed to proceed and complete Section 7-A proceedings. In case the petitioner failed to produce the relevant records as requested by the department, the Regional Provident Fund Commissioner is directed to proceed in accordance with the EPF Act and Rules. The above exercise shall be completed within a period of four weeks from today. The respondents are at liberty to recover the assessed amount along with interest in accordance with law.

Learned counsel for the respondents pointed out that order imposing cost on 25.07.2016 has not been complied with by the petitioner. The learned counsel submitted that for want of order dated 25.07.2016 order has not been complied and non-compliance is not an intentional one. If the petitioner fails to comply the same within a period of 15 days, the respondents are at liberty to file a contempt of court petition.

The petition stands disposed of accordingly.

August 05, 2016

rittu

(P. B. BAJANTHRI)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No