IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No. 1779 of 2015 (O&M)

DATE OF DECISION : 03.02.2016

Central Board of Trustees, Employees Provident Fund Organisation
.... APPELLANT

Versus

Riba Textiles Limited, Village Chidana, Tehsil Gohana, District Sonepat and another
.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present : Mr. Rajesh Hooda, Advocate,
for the appellant.

* * *

SATISH KUMAR MITTAL, J.

This intra-court appeal under Clause X of the Letters Patent has been filed against the order dated 04.08.2015 passed by the learned Single Judge, whereby the writ petition (CWP No. 1132 of 2011) filed by the appellants challenging the order/Award dated 09.04.2010 (Annexure P-4) passed by the Employees' Provident Fund Appellate Tribunal, New Delhi, has been dismissed.

Though there is delay of 5 days in filing the appeal and the appellant has filed application (CM No. 3831-LPA of 2015) for condoning the said delay, yet we have heard learned counsel for the appellant on merits and have gone through the impugned order passed by the learned Single Judge.

In this case, on an appeal filed by M/s Riba Textiles Limited (respondent No.1 herein) against the order dated 09.09.2005 (Annexure P-1) passed by the Provident Fund authority under Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as `the Act') directing the respondent No.1 employer to deposit the damages and interest. On an appeal preferred by respondent No.1, the Employees' Provident Fund Appellate Tribunal, New Delhi, set aside the said order and remanded the matter back to the Provident Fund authority with a direction to assess the liability at the rate of 27% inclusive of the interest. While remanding the matter, the Appellate Tribunal came to the conclusion that while fixing the liability of damages and interest, the Provident Fund authority has not looked into the grounds of financial problems taken by respondent No.1 employer and the order was non-speaking and did not reveal the manner of assessment.

The appellant challenged the said order of remand by filing writ petition (CWP No. 1132 of 2011) which has been dismissed by the learned Single Judge, while observing as under :-

> *"On going through the plain and simple language enshrined under Section 14-B of the Act, 1952, the Central Provident Fund Commissioner does not compulsorily have to impose damage as the word used is `may'. The word `may' envisages "it may think fit to impose".*

> *The Presiding Officer while noting the contention of the respondents, confined the damages to the extent of 15% which in my view is erroneous, much less, illegal and inasmuch as that reduction in the damages can always be done as per the evidence and circumstances of viability to pay awarded amount. The circumstances explained before the authority was accepted by the respondent, as it had suffered financial loss. Keeping in view the aforementioned, the Presiding Officer remanded back the matter by limiting the element of Sections 7Q and 14-B of the Act, 1952.*
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> *No fault can be found with the findings rendered by the Presiding Officer. There is no merit in the writ petition."*

Learned counsel for the appellant argued that the Appellate Tribunal under the Act has no jurisdiction to reduce the damages awarded by the Provident Fund authority under Section 14B of the Act, and the learned Single Judge has completely ignored the fact that while remanding the matter, the Appellate Tribunal should not have fixed the liability of damages and interest @ 27% inclusive of interest.

We do not agree with the contention raised by learned counsel for the appellant. Section 7L of the Act defines the power of the Appellate Tribunal who hears an appeal against the order passed under Section 14B of the Act. According to the said provision, a Tribunal may pass such orders on the appeal as it thinks fit, confirming, modifying or annulling the order appealed against or may refer the case back to the authority which passed such order with such directions as the Tribunal may think fit, for a fresh adjudication of the matter. The only requirement is that before passing an order, the Appellate Tribunal has to give an opportunity of hearing to the affected parties.

In this case, in our opinion, the learned Single Judge has rightly observed that once the Tribunal has exercised its discretion while passing the order in terms of Section 7L of the Act, no interference is required in the writ jurisdiction.

On the last date of hearing, the Regional Provident Fund Commissioner, Karnal, was directed to file his affidavit stating the total revenue effect as well as liability involved in this appeal. The affidavit has been accordingly filed, wherein it has been stated that the total effect of reducing the damages by the Tribunal is ₹ 4,97,189/-. In our opinion, this amount is not very substantial. Therefore, we do not find any ground to interfere with the impugned order passed by the learned Single Judge.

No merit. Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

February 03, 2016 **(HARINDER SINGH SIDHU)**
ndj **JUDGE**