

\$~10

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

% *Judgement Delivered on 19th September, 2016*

+ **W.P.(C) 50/2016 & CM No.264/2016**

CENTRAL BOARD OF TRUSTEES, EPF THROUGH:
ASSISTANT P.F. COMMISSIONER, LEGAL, DELHI (NORTH)

..... Petitioner

Through: Mr.Puneet Garg, Advocate.

Versus

EMPLOYEES PROVIDENT FUND APPELLATE TRIBUNAL &
ANR. Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. The learned counsel for the petitioner states that name of the respondent No.1/Employees Provident Fund Appellate Tribunal ('Tribunal') be deleted from the array of the parties. Let it be so done. An amended memo of parties be filed within two weeks from today.
2. The respondent No.2 has been served on 04.05.2016. Yet none appeared for the said respondent on 04.05.2016 nor is there any representation by the said respondent today.
3. The impugned order dated 12.08.2015 had directed the petitioner to file its reply, subject to payment of costs of Rs.10,000/-, to the appeal preferred by the respondent under Rule 12(1) of the Employees Provident

Fund Appellate Tribunal (Procedure) Rules, 1997 ('1997 Rules').

4. It is the petitioner's case that on 12.03.2015 the Tribunal had directed the appellant to deposit the assessed amount under Section 7-Q of the Act in 30 days thereof with intimation of the same to the Registry. It was clarified that in default of the deposit the appeal would be deemed to be dismissed and 7-Q order would be stayed only if the deposit as directed was made. The petitioner (respondent in the appeal) was directed to file a reply to the appeal under Rule 12(1) of the 1997 Rules. The case was posted for compliance on 12.08.2015. It is the petitioner's case that since the deposit was not made in 30 days the appeal stood automatically dismissed, hence there was no requirement of filing a reply to it.

5. Nevertheless, when the case was next listed on 12.08.2015, the Tribunal examined the compliance of its order apropos the deposit of the 7-Q amount and the filing of reply of the respondent. It evidently treated the appeal as subsisting because the deposit had been made, however, since a reply had not been filed on behalf of the present petitioner under the Rules, the aforesaid cost was imposed. The Tribunal reasoned that under Rule 12(1) a contesting respondent is required to file a reply within one month of service of the notice of the appeal. This notice was served upon the present petitioner on 11.05.2015 and as per the direction they were supposed to file a reply within the time specified. The Tribunal held that in the absence of non-filing of the reply the appeal was to be admitted in toto, but since the beneficiaries were not to be deprived of their due rights on account of negligence of the respondent, such precipitate action would not be appropriate hence in the interest of justice the aforesaid cost of Rs. 10,000/- was imposed.

6. The Court is of the view that there was a specific direction and in terms of Rule 12(1) the respondent was to file a reply within 30 days of service of notice to the appeal. Furthermore since the requisite amount under 7-Q was credited to the EPF account on 17.06.2015, it would not have been prudent for the respondent to await the effect of the said deposit in view of the order dated 11.05.2015. It was open to the petitioner to have argued after filing of the reply that no appeal existed since the deposit was made after 30 days of the direction of the Tribunal. However, after the deposit was made on 17.06.2015, the 30 day period for filing a reply commenced. The petitioner should have filed the reply in the said period or in such further time as the Tribunal may have granted it. Since the petitioner did not file the reply within the required time, it was open to the Tribunal to impose costs.

7. The Court finds no reason to interfere with the said order. The petition is without any merit and is accordingly dismissed.

NAJMI WAZIRI
(JUDGE)

SEPTEMBER 19, 2016
sb