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

\+ W.P.(C) 7329/2016

ANDHRA BANK ..... Petitioner

Through: Mr. J.P. Sengh, Sr. Advocate with Mr. N.P. Gaur, Ms. Sara Ansari and Ms. Manish Mehta, Advocates

versus

EMPLOYEES PROVIDENT FUND ORGANISATION AND ANR ..... Respondent

Through: Mr. Keshav Mohan and Mr. Piyush Choudhary, Advocates.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% **22.08.2016**

CM 30140/2016 (Exemption)

Exemption allowed subject to all just exceptions.

W.P.(C) 7329/2016

Issue notice. Notice is accepted by Mr. Keshav Mohan, Advocate for the respondents.

This writ petition impugns the letter dated 27th July 2016 from the Recovery Officer of respondent No.1 which has determined the petitioner – bank as a "deemed defaulter" and has sought to claim an amount of Rs.31,85,079/- from it. It is the petitioner's case that respondent No.2 was its client who was extended a loan of over Rs.2,500 crores by a consortium of banks, in which the petitioner bank had lent about Rs.50 crores. Mr. Sengh, learned Senior Advocate for the petitioner, states that the liability has increased to over Rs.64 crores. Respondent No.2, by a letter dated 3rd May 2016, had written to the respondent No.1, the Assistant Provident Fund

Commissioner that an amount of Rs.1,22,59,036.26 is lying in Account No. 008411100002263 maintained with the petitioner bank and PF liability may be recovered from the amount lying in the said bank account.

Mr. Sengh contends that in the first instance the amount lying in the bank account was never deposited by the assessee respondent No.2. It was an amount advanced to the assessee by the petitioner Bank for serving debts. Therefore, since there was no contribution by the assessee in the said amount, the assessee cannot claim any right over it. Hence, the contention of respondent No.2 that the money belongs to it is untenable and the money sought to be recovered by the Provident Fund Commissioner as arrears of land revenue is alleged.

The learned counsel for the parties submit that these details would need to be looked into by the Provident Fund Commissioner.

Evidently, the impugned order dated 27th July 2016 does not refer to the aforesaid contentions of the Bank and the circumstances which led to the amount being, kept by the Bank into the assessee's account. In the circumstances, the case is remanded to the Provident Fund Commissioner who shall consider the aforesaid contentions and pass a speaking order after giving due notice of hearing to the parties. The matter shall be disposed of within a period of 12 weeks. Till then no precipitate action shall be taken against the petitioner. Should the petitioner be aggrieved by any subsequent order, its right to avail judicial remedies shall remain unaffected.

The petition stands disposed off in the above terms.

NAJMI WAZIRI, J

AUGUST 22, 2016/Aj