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

+ W.P.(C) 6895/2015 & CMs 12636/2015, 21674/2015

FRESENIUS KABI ONCOLOGY LTD. Petitioner

Through: Mr Ramji Srinivasan, Sr. Adv. with
Mr. V. Subramniam T.R., Mr. Rahat
Bansal, Mr. Vivek Paul, Mr. Tushar
Bhardwaj, Advs.

versus

ASSISTANT PROVIDENT FUND
COMMISSIONER, DELHI (NORTH)

..... Respondent

Through: Mr. R.C. Chawla, Standing Counsel
with Ms. Inderjeet Sidhu, Adv.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **08.12.2016**

1. The petitioner has challenged the order dated 26th August, 2014 passed by the Assistant PF Commissioner, Delhi (North) whereby Rs.6,53,643/- has been held to be recoverable from the petitioner for the period January, 2004 to September, 2011.
2. Learned senior counsel for the petitioner submits that vide letter dated 25th February, 2005, the respondent covered the petitioner under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 w.e.f. 1st January, 2005. It is submitted that the respondent had no jurisdiction to apply the Act to the petitioner prior to 1st January, 2005 and therefore, the order is without jurisdiction.
3. Since the impugned order does not contain any discussion on the objections raised by the petitioner before this Court, this Court is of the view that it would be appropriate to remand the matter back to the respondent to

consider all the contentions of the petitioner afresh and pass a fresh order.

4. The writ petition is allowed, the impugned order dated 26th August, 2014 is set aside and the matter is remanded back to the respondent to consider afresh all the contentions urged by the petitioner. The petitioner is permitted to file fresh objections before the respondent within a period of four weeks from today whereupon the respondent shall afford an opportunity of hearing to the petitioner and pass a fresh order in accordance with law.

5. The amount deposited by the petitioner before this Court in terms of order dated 22nd July, 2015 be retained by the respondent in fixed deposit for a period of four months from today. If the fresh order is passed within a period of four months from today holding the petitioner is liable to pay any amount, the respondent would be at liberty to adjust the same from the amount deposited by the petitioner. However, if no order is passed within a period of four months from today, the respondent shall refund the amount to the petitioner along with interest accrued thereon subject to the fresh order to be passed by the respondent. If the amount has not been kept in fixed deposit till now, the same shall be put in fixed deposit forthwith. The pending applications are disposed of.

6. Copy of this order be given *dasti* to counsels for the parties under the signature of the Court Master.

J.R. MIDHA, J.

DECEMBER 08, 2016

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