**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.1228 of 2013**
**IN**
**Civil Writ Jurisdiction Case No. 12721 of 2012**

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M/S Car Scanner Through Its Proprietor Krityanand Rukhaiyar Son Of Late Krishna Nand Prasad Resident Of M.I.G. 34, Kankarbagh Housing Colony, P.O. - Lohiya Nagar, P.S. - Kankarbagh, District - Patna

.... .... Petitioner / Appellant

Versus

1. The Employees Provident Fund Organisation Under The Ministry Of Labour Government Of India Through The Regional Provident Fund Commissioner Regional Office, Bhavishyanidhi Bhawan, R-Block, Road No. 6, Patna - 1
2. The Assistant Regional Provident Fund Commissioner, Bihar, Patna, Employees Provident Fund Organisation, Bhavishyanidhi Bhawan, Road No. 6, Patna - 1
3. The Assistant Provident Fund Commissioner (Compliance) Patna, Bihar, Employees Provident Fund Organisation, Bhavishyanidhi Bhawan, R-Block, Road No. 6, Patna - 1
4. The Recovery Officer, Employees Provident Fund Organisation, Bhavishyanidhi Bhawan, R-Block, Road No -6, Patna

.... .... Respondents / Respondents.

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**Appearance:**

For the Appellant/s : Mr. Ashok Kumar Chaudhary,
Mr. Sunil Kumar Sharma and
Mr. Akshansh Ankit, Advocates.

For the Respondent/s : Mr. Prashant Sinha, Advocate.

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**
**and**
**HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)**

**Date: 03-11-2017**

Heard learned counsel for the appellant and learned counsel for the Regional Provident Fund authorities.

No doubt, the Employees Provident Fund Act is a beneficial piece of legislation but when adjudications are made by the department for the so-called compliance against nameless, faceless people then the object is not to enforce a welfare legislation but to use the Act for enriching the the organization. The Court is informed that the organization is sitting over a corpus of more than 55 thousand crores and there are no claimants since the beneficiaries were not identified. Since most of these persons are workmen and not very well paid, the corpus would not swell every year after year if the beneficiaries are identified in the first place.

Even in the present case it seems that the Assessing Authority, i.e., the Assistant Provident Fund Commissioner had made some kind of unilateral assessment on so-called headcount on the so-called acceptance made by the appellant about the number of people working.

If the provident fund authorities cannot identify individuals they cannot compel compliance merely on numbers.

This Court had occasion to observe as above in an earlier case which was the case of **M/s Roxy Cinema Vs. State of Bihar & Ors.**, reported in **2013 (2) PLJR 931**, on the manner in which liability is required to be fixed.

In view of the ratio of the decision as above which is also based on the observation made by the Hon'ble Apex Court, the Appeal is allowed.

The order dated 11.07.2013 passed by the learned Single Judge is set aside and the matter is remanded back to the Assistant

Provident Fund Commissioner to make a fresh assessment, identify the beneficiaries and then fix liability upon the head of the appellant.

The exercise will be required to be done de novo.

All adjudication made earlier or the findings made therein will be of no avail.

It is made clear that the question of applicability of the Act to the establishment will have to be also decided first.

Appeal is allowed.

**(Ajay Kumar Tripathi, J)**

**(Rajeev Ranjan Prasad, J)**

Dilip, AR

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