

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1263 of 2013

IN

Civil Writ Jurisdiction Case No. 4061 of 2011

- =====
1. The Assistant Provident Fund Commissioner, Sub-Regional Office, Employees Provident Fund Organization, Surya Complex, Laxmi Chouk, Muzaffarpur
 2. The Assistant Provident Fund Commissioner-Cum-The Recovery Officer, Employees Provident Fund Organisation, Regional Office, Bihar, Patna

.... Appellant/s

Versus

Raj Kumar Gupta Son Of Late Prabhu Kumar Gupta Resident Of Mohalla Maripur, P.S. Kazi Mohammadpur, District- Muzaffarpur

.... Respondent/s

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Appearance:

For the Appellant/s : Mr. Rajesh Kumar, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 18-09-2017

None appears for the appellant.

Heard learned counsel for the respondent.

Challenging the orders passed by the Assessing Officer under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 and the order passed by the appellate authority dismissing the appeal filed by the respondent employer (Establishment), the writ petition in question was filed and while considering the grievance made by the respondent in the writ petition, the learned Writ Court relied on a judgment in the case of



Food Corporation of India vs. Provident Fund Commissioner, reported in(1990)1 SCC 68, wherein certain specific procedures have been laid down and in the light of the opinion expressed by the Supreme Court in the said judgment it was found that the assessment proceedings were not done in accordance to the requirements of the law and in an illegal manner the order of assessment under Section 7A was passed. Therefore, the learned Writ Court interfered in the matter *inter alia* contending that the assessment has been done in accordance with the requirements of law and there is no illegality in the matter, this appeal has been filed by the Provident Fund Organization.

Ground raised is that the assessment was with regard to the establishment named M/s. Old Bhagirah Hotel, situated at court compound, Muzaffarpur whereas without identifying the correct owner and the people working in the establishment, action has been taken against the petitioner herein Shri Raj Kumar Gupta without there being any evidence to show that he was the owner or proprietor of the establishment in question.

In our considered view, the learned Writ Court in interfering with the matter, has not committed any error. In case the orders passed under Section 7A has duly been rejected on non-technical ground, the appellant can always proceed in the matter, in accordance with law after following the observations laid down by the



Supreme Court in the case of F.C.I. (supra).

We find no reason to interfere in the matter. The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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