IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

212 **CWP-24210-2011 (O&M)**
Date of decision:12.09.2017

Central Board of Trustees

....Petitioner

Versus

M/s J.J.Sokhey Industries (Tools) Pvt. Ltd. and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Rajesh Hooda, Advocate for the petitioner.

None for the respondents.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioner has challenged the validity of order of Employees Provident Fund Appellate Tribunal (for short 'EPFAT') dated 17.08.2011 (Annexure P-4).

The respondents failed to deposit EPF amount within the stipulated time for the period from April, 2002 to December, 2008. Therefore, petitioner issued notice for levying damages and interest under Sections 14B and 7Q of the EPF Act. Since there was no reply, summons were issued on 23.06.2009 for personal appearance of the respondents on 06.07.2009. Even for summons there was no response from the respondent. Consequently, on 3 occasions dates were fixed on 22.07.2009, 03.08.2009 and 20.08.2009 for personal hearing and it was not attended by the respondent. In view of the non-cooperation of the respondent to the notice as well as summons, petitioner proceeded to pass order under Sections 14-B and 7-Q of EPF Act on 03.09.2009. Feeling aggrieved by the order dated 03.09.2009 respondent preferred an appeal before the EPFAT. EPFAT remanded the matter for recalculation of damages and interest @ 17% inclusive of interest. Petitioner aggrieved by the EPFAT order dated 17.08.2011 presented this petition.

Learned counsel for the petitioner submitted that grounds urged by the respondent before the appellate authority are that there is a delay in taking action to levy damages and interest under the EPF Act. The other contention is that the respondent was facing financial difficulties. The EPFAT after considering the grounds urged by the respondents proceeded to pass order while remanding to the authorities for the purpose of recalculation of damages and interest @ 17% inclusive of interest. Learned counsel for the petitioner submitted that EPFAT exceeded its jurisdiction in respect of reducing the levy of damages and so also interest in view of the Supreme Court decision namely ***Hindustan Times Limited versus Union of India and others*** reported in (1998)2 SCC 242 and also relied on judgment titled as ***Patiala Co-operative Sugar Mills Limited versus The Employees Provident Fund Appellate Tribunal and others*** (CWP No. 16067 of 2011) decided on 22.11.2016.

There is no representation on behalf of the respondents even before this court. In fact when the matter was listed on 08.08.2017 it was ordered that if the matter is not argued on behalf of respondent No.1, with available records, writ petition would be decided in accordance with law on the next date of hearing. Matter called twice. None appears for respondent No.1.

Crux of the matter in the present petition is whether EPFAT exceeded its jurisdiction in respect of directing the petitioner to recalculate @17% inclusive of interest on the damages and interest with reference to Sections 14B and 7Q of the EPF Act or not? Supreme Court in ***Hindustan Times's case (supra)*** dealt with the issue at length. Even Supreme Court has considered the issue of financial difficulties as well as delay in taking up the matter under Sections 14B and 7Q of the EPF Act. Hence order of the EPFAT dated 17.08.2011 (Annexure P-4) is set aside. The respondent No.1 is hereby directed to comply the order dated 03.09.2009 of the petitioner within a period of 2 months from today. Failing which petitioner may take action against respondent No.1 in accordance with law.

CWP stands allowed.

(P.B.BAJANTHRI)
JUDGE

12.09.2017
pooja saini

Whether speaking/reasons Yes/No

Whether Reportable: Yes/No