

LPA no.1715 of 2017 (O&M) 1

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA no.1715 of 2017 (O&M)

Date of Decision :18.09.2017

Grand Windsor Resort Ltd.

....Appellant(s)

Versus

Central Board of Trustees and another

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE RAJ SHEKHAR ATTRI**

Present : Mr.Gunjan Rishi, Advocate for the appellant(s)

MAHESH GROVER, J.(ORAL)

This appeal is directed against the judgment of the learned Single Judge dated 19.7.2017.

The appellant faced the proceedings under Section 7-A of the Employees Provident Fund Act (hereinafter referred to as the 'Act'). The competent authority under the Act did not agree with the explanation offered by the appellant pursuant to the notice and concluded an act of subterfuge and while concluding so directed the appellant to produce the relevant documents i.e wages register in respect of all eligible employees on the date of hearing fixed i.e 7.4.2017.

Instead of doing so, the appellant went up in appeal before the Tribunal which declined interference as the matter was premature. This led to the filing of the writ petition where learned Single Judge declined interference and deprecated the conduct of the appellant in agitating the matter betraying evasiveness. Writ petition was dismissed with costs of

Rs.10,000/-.

Before us similar arguments have been raised as the ones before the writ Court to contend that once an opinion of subterfuge has been formed by the competent authority under Section 7-A of the Act it forecloses any other opinion and the logical consequence would be assessment and penal clauses that are likely to be enforced against the appellant. It is contended that this would cause serious prejudice to his cause and fair assessment.

After hearing learned counsel for the appellant, we are of the opinion that no interference is warranted with the impugned orders. The entire issue under Section 7-A of the Act is yet to be concluded and merely because an opinion of subterfuge has been formed by the competent authority would be no ground to accept apprehension of the appellant as we are of the opinion that since the competent authority has given an opportunity to the appellant to produce the relevant records, this in itself is suggestive of the fairness of the process. Needless to say that if the appellant is able to satisfy the competent authority, prima facie opinion of subterfuge would not stand in the way of the fair assessment. It also goes without saying that the appellant would be free to avail itself of the remedies available to him under the law.

Hence, instant appeal is hereby dismissed. However, delay of 26 days in filing the instant appeal is hereby condoned.

(Mahesh Grover)
Judge

(Raj Shekhar Attri)
Judge

18.09.2017

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No