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

\+ W.P.(C) 8148/2017

M/S RADIKAL FOODS LTD. ..... Petitioner

Through: Mr.Jay Savla, Advocate

versus

UNION OF INDIA & ORS ..... Respondents

Through: Mr.Vivek Goyal, Adv for R-1
Mr.Keshav Mohan, Adv for R-2

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

<u>O R D E R</u>

% 13.09.2017

<u>CM No.33501/2017</u>

This is an application filed on behalf of the petitioner seeking exemption from filing of copies of documents and Annexures and orders. The same is allowed subject to just exceptions.

The application is disposed of.

<u>W.P.(C) No.8148/2017 and CM No.33500/2017</u>

Respondent No.3 arrayed on the record is a proforma party.

Initial submissions made on behalf of the petitioner.

1. Vide the present petition, the petitioner *inter alia* seeks setting aside of the impugned orders dated 9.3.2017, 23.3.2017 and 17.4.2017 passed in ATA No. 130(4)2017 by the Employees Provident Fund Appellate Tribunal, New Delhi.

2. Learned counsel present on behalf of the respondents No. 1 & 2 accept notice of the petition.

3. Vide order dated 12.9.2016 under Section 7-A and 7-B of the

EPF & MP Act, 1952 as issued by the Regional Provident Fund Commissioner, Regional Office, Delhi (South) the employer, i.e., the petitioner herein was held to have failed to remit the provident fund to the tune of Rs.1,15,65,241/- during the enquiry period 2010-2015 which the employer had been directed to deposit within 15 days of the receipt of the order.

4. The petitioner herein assailed the same before the Employees Provident Fund Appellate Tribunal (EPFAT) vide the Appeal No.130(4)2017 and vide order dated 9.3.2017 of the Presiding Officer, Employees Provident Fund Appellate Tribunal qua the application under Section 7-O of the said enactment seeking waiver of the pre-deposit, the amount of pre-deposit was reduced from 75% to 50% and the matter was fixed for 27.3.2017 for compliance of the pre-deposit and in further proceedings vide order dated 23.3.2017, an application filed on behalf of the applicant i.e. the petitioner herein seeking modification of order dated 9.3.2017 was dismissed observing to the effect that there was no ground to modify the order and the application was dismissed with the direction for compliance of the pre-deposit to be reported on 27.4.2017. Vide order dated 27.4.2017, the appeal was dismissed by the Employees Provident Fund Appellate Tribunal as the order dated 9.3.2017 had not been complied with. Thus the appeal was dismissed for non-compliance of the pre-deposit.

5. Through the present petition, *inter alia*, it is submitted to the effect that the petitioner is facing severe losses and had losses of 4.3 crores and submitted a copy of the Profit & Loss Account. Though the petitioner has made several other challenges in relation to the

corrections of the order under Section 7-A & 7-B of the EPF & MP Act, 1952, the same has not been considered in as much as the present petition only seeks the setting aside the order of the EPFAT.

6. On a consideration of the submissions that have been made in the petition and the submission to the effect that the petitioner is suffering from financial constraints, subject to deposit of the 40% of the assessed amount in terms of the order dated 12.9.2016 under Section 7-A of the EPF & MP Act, 1952 Ref. No.DSNHP/939315/Comp-IV dated 12.9.2016 before the concerned CGIT, New Delhi within a period of two weeks in the form of an FDR which is then directed to be converted into an auto renewal mode, the orders of the EPFAT, New Delhi dated 9.3.2017, 23.3.2017 and 27.4.2017 are set aside and the appeal is restored to its original stage and number and the CGIT, New Delhi to whom the appeal now stands transferred in terms of Section 185(4) of the Finance Act, 2017, read with the Gazette Notification No. SO.1696(E) dated 26.05.2017 issued by the Ministry of Finance, Department of Revenue, Government of India is directed to hear the parties in accordance with law after the pre-deposit has been made as directed herein above.

7. The petition is disposed of accordingly.

ANU MALHOTRA, J

SEPTEMBER 13, 2017/sv