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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (L) No. 1095 of 2011**

M/s Jai Durga Ceramics, Murmunda Ahiwara Road, Distt. Durg (C.G.) through its Partner Sharad Varu.

---- Petitioner**Versus**

1. Employees Provident Fund Appellate Tribunal, New Delhi, Scope Minar, Core-II, 4th Floor, Laxmi Nagar, District Centre, Laxmi Nagar, New Delhi 1100 92.
2. Regional Provident Fund Commissioner (II) Office of Employees Provident Fund Organization, Regional Office, Indira Gandhi Vyavasaik Parisar, Pandri, Raipur (C.G.)

---- Respondents

For Petitioner	: Mr. N.K. Vyas, Advocate.
For Respondents	: Mr. Sunil Pillai, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****26/04/2018**

(1) Feeling aggrieved and dissatisfied with the order dated 31st May, 2004 passed by Regional Provident Fund Commissioner, Regional Office, Raipur directing the petitioner-employer to remit Rs.6,12,591/- for the period from 11/97 to 12/2001, the petitioner preferred appeal before the Employees' Provident Fund Appellate Tribunal, New Delhi (henceforth "the Tribunal") under Section 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. That appeal came up for hearing before the Tribunal on 3rd January, 2011 and it has been dismissed on merits in absence of the petitioner, against which instant writ petition has been filed questioning the same.

(2) Learned counsel appearing for the petitioner would submit that Rule 13 of the Employees' Provident Funds Appellate Tribunal (Procedure) Rule, 1997 (henceforth "Rule, 1997") was not followed as the Tribunal has not notified the date and place of hearing of the appeal and by the impugned order, the petitioner's appeal was dismissed, which is bad and unsustainable in law. He further submits that the petitioner has raised specific ground in paragraph 9.2 of the petition that respondent No.1 heard the matter without notifying the date and place of hearing as required under Rule 13 of Rule, 1997 and his appeal has been dismissed without giving due opportunity of hearing to the petitioner, as such, it is violation of principle of natural justice.

(3) Return has been filed and the same is blissfully silent with regard to paragraph 9.2 of the writ petition.

(4) I have heard learned counsel appearing for the petitioner.

(5) Since the Tribunal has not notified the date and place of hearing of the appeal as required under Rule 13 of the Rules, 1997 and the opportunity of hearing was not given to the petitioner before passing the impugned order, the impugned order dated 3rd January, 2011 is set aside and the matter is remitted to the Central Government Industrial Tribunal, Jabalpur constituted in place of Employees' Provident Fund Appellate Tribunal for hearing and disposal of hearing in accordance with law after affording due opportunity of hearing to the petitioner.

(6) Accordingly, the writ petition is allowed to the extent indicated hereinabove.

Sd/-
(Sanjay K. Agrawal)
Judge

(Sanjay K. Agrawal)
Judge

D/-