IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

205 **CWP-6158-2011 (O&M)**
Date of decision:09.02.2018

M/s Thukral Regal Shoes

...Petitioner

Versus

Regional Provident Fund Commissioner and another

.... Respondents

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

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Amandeep Singh Talwar, Advocate for the petitioner.

Mr. Rajesh Hooda, Advocate for the respondents.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition. petitioner has challenged the order dated 30.03.2010 passed by the Employees Provident Fund Appellate Tribunal (for short 'EPFAT') vide Annexure P23. Petitioner is in the establishment of shoe business. Respondent-EPF department gave a surpise vist to the petitioner's business establishment on 05.06.1998 and report has been drawn to the extent of 21 persons were working as on the date of inspection. To that extent list of employees has been drawn and it was attested by one of the partner of the petitioner's business establishment. EPF department proceeded to hold that petitioner establishment covers under the EPF Act.

To that extent an order was passed on 06.08.2001 under Section 7A[1(a)] of EPF Act vide Annexure P5. Thereafter due compliance of procedure was followed and assessment was also made for the period from June, 1998 to March, 2006 under 7A proceedings on 22.06.2006. In the meanwhilie petitioner has challenged 7A[1(a)] proceedings before the EPFAT appeal in which it is prayed as under:-

> *"The order No. PN/PBCH.20354/Enf.l/4356 dated 21.07.1998 covering the appellant establishment under the Employees' Provident Fund & Miscellaneous Provisions Act, 1952 be revoked & set aside with heavy cost in view of the facts stated above and law of the land"*

EPFAT rejected the petitioner's appeal. Hence the present petition.

(2) Learned counsel for the petitioner submitted that there is contradictory statement of the inspecting squad of one Sh. Laxman Dass to the extent that there were no attendence register and further in the cross examination he has seen the attendence register but not signed the attendence register. On this count alone proceedings under Section 7A[1(a)] dated 06.08.2001 is liable to be set aside. Consequently further proceedings under Section 7-A dated 22.06.2006 and EPFAT's order dated 30.03.2010.

(3) Learned counsel for the respondents submitted that petitioner has not challenged order dated 06.08.2001 before the EPFAT even though he has presented appeal before 7-A proceedings were drawn on 22.06.2006. It

was further submitted that even proceedings under Section 7-A dated 22.06.2006 has not been challenged. Thus, no interference is called for in respect of EPFAT order dated 30.03.2010.

(4) Heard learned counsel for the parties.

(5) Perusal of the prayer before the EPFAT it is evident that peitioner's had not challenged order dated 06.08.2001 and so also 22.06.2006. In the absence of challenge to the 7 A [1(a)] proceedings dated 06.08.2001 petitioner is not entitled to any benefit. That apart EPFAT has erred in taking decision with reference to 7A[1(a)] proceedings dated 06.08.2001 when it was not challenged in the appeal. In view of not challenging orders dated 06.08.2001 and 22.06.2006 before EPFAT petitioner has not made out a case so as to interefere with the order dated 30.03.2010. Accordingly, CWP stands dismissed.

(P.B.BAJANTHRI)
JUDGE

09.02.2018
pooja saini

Whether speaking/reasons Yes/No

Whether Reportable: Yes/No