IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6964 of 2018

Uttar Bihar Gramin Bank Head Office Kalambagh Chowk, Muzaffarpur, through its Senior Manager.

... ... Petitioner/s

Versus

1. The Union of India, Ministry of Labour and Employment, Government of India through its Secretary.
2. The Central Provident Fund Commissioner, Bhavishya Nidhi Bhavan, 14, Bhikajee Cama Place, New Delhi 110066.
3. Employee Provident Fund Organisation, Surya Complex, Laxmi Centre, P.O. HIT Muzaffarpur, Bihar 842003 through the Assistant Provident Fund Commissioner (Damages) Muzaffarpur.
4. The Regional Provident Fund Commissioner, Regional Office, Employees Provident Fund Organisation, Surya Complex, Laxmi Chowk, Muzaffarpur.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Sinha, Adv.
For the Respondent/s	:	Mr. Prashant Sinha, Adv.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 22-07-2019

Heard the learned counsel for the petitioner and learned counsel for the respondents.

2. In the present case, the issue has been raised that the order passed in proceeding under section 7Q and 14B is completely an erroneous, misplaced and misdirected order on the score of fact that the money has been deposited in the Bank notified by E.P.F.O. through the networking and if any time has been consumed in remittance of the money by the Bank to the E.P.F.O. office, liability cannot be attached to the petitioner Bank and the prayer has been made to quash the summons and deposit the assessed amount.

3. An interlocutory application, vide I.A. No. 3771 of 2018, has been filed whereby and whereunder the petitioner has challenged the final orders (Annexure - P/7 series) passed by the Assistant Provident Fund Commissioner. Vide Memo no. 316 dated 18.04.2018, he has assessed the amount of Rs. 66289 under section 14B and Rs.62641 under section 7Q. Vide Memo no.317 dated 18.04.2018, assessment has been made of Rs.43458 under the 14B and Rs.51172 under the 7Q and vide Memo no. 315 dated vide dated 18.04.2018 under the 14B Rs.6648 and under the 7Q Rs.15958 has been assessed. This assessment has been made on account of delay in depositing of employer contribution by the petitioner, but he has pointed out that the Bank has deposited the required amount through the networking to the Bank notified by the E.P.F.O. and, as such, if any delay has occurred on account of remittance of money by the notified Bank, liability cannot be imposed upon the petitioner Bank, this aspect has not been replied by the E.P.F.O. nor it has been denied the claim of the petitioner. It is a matter of surprise that when the petitioner has deposited the money through the networking on the due date to the Bank notified by the E.P.F.O., in such circumstance, there cannot be any delay from the part of the petitioner Bank. It is a dispute in between the notified Bank and the E.P.F.O. and if they want to take any action, they may take action against the notified Bank, not the petitioner Bank which has deposited the amount in time.

4. The counsel for the Bank submits that they have explained their conduct, in what manner, the remittance of money has been affected, but the Assistant Provident Commissioner has failed to take into consideration the plea of the petitioner Bank, but recorded his own finding with regard to the stand taken by the petitioner Bank. The counsel for the E.P.F.O. submits, as the E.P.F.O. is bound to pay the interest on the delay in payment of money to the worker and, as such, unless the money is recovered from the employer along with the interest, it will be very difficult to make payment. But question in the present case, liability can be attached if wrong has been done by the petitioner, but in the event when there is no laches on the part of the petitioner Bank then liability cannot be attached and the Authority has not dealt with this aspect of the matter and has not given opinion about the plea that has been raised by the petitioner.

5. In such view of the matter, all the three orders (Annexure P/7-series) are set aside and the matter is remanded back to the E.P.F.O. to take decision after consideration of the defence/plea taken by the petitioner Bank.

6. Accordingly, this petition is allowed to the aforesaid extent.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	**NAFR**
CAV DATE	N/A
Uploading Date	27.07.2019
Transmission Date	N/A