IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13829 of 2011

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Central Board of Trustees, Employees Provident Fund Organization through Assistant Provident Fund Commissioner, Muzaffarpur.

...... Petitioner

Versus

M/S Mahila Grih Udyaog Lijjat Papad, Rambagh, P.O.- Ramana, Muzaffarpur

... ... Respondent

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Appearance :

For the Petitioner/s : Mr. Prashant Sinha, Advocate
For the Respondent/s : Mr. M.P. Srivastava, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 03-01-2019

Heard learned counsel for the parties.

2. In the present case, the Employees Provident Fund Organization has challenged the order dated 17.11.2008 passed by the Appellate Authority in ATA No. 629(3) of 2003, whereby and whereunder the Appellate Authority has examined the judgment passed by the Hon'ble Supreme Court in the case of *Shri Mahila Griha Udyog Lijjat Papad vs. Union of Indian* reported in *2001(1) CLR 85,* whereby and whereunder the Hon'ble Supreme has held that the establishment of Lijjat Papad will be liable to pay contribution of Provident Fund from 01.04.1999.

3. The short facts of this case are that a proceeding under Section 7A of the Employees Provident Fund Act was initiated against M/s Mahila Grih Udyog Lijjat Papad, Rambagh, Muzaffarpur, where women engaged are called sisters. The Assistant Provident Fund Commissioner has held that they are not the employees within the meaning of Provident Fund Act, and as such the Provident Fund Act does not apply to Lijjat Papad. Whereafter, an identical issue has gone to the Hon’ble Supreme Court with regard to applicability of the Act to those sisters who are engaged by Shri Mahila Griha Udyog Lijjat Papad, Jabalpur branch and the Hon’ble Supreme Court has held that they are the employees of the establishment and they will be entitled to the benefit of Provident Fund, but the Hon’ble Supreme Court made it prospective from and after 01.04.1999 and in a specific term it has been held that Jabalpur branch will not be liable to make any contribution prior to 01.04.1999. After this judgment, the Assistant Provident Fund Commissioner again restarted the proceeding under Sections 7A and 7C of the Act and made assessment of the amount to the tune of Rs.57,75,045/-. The order was challenged before the Appellate Authority and the Appellate Authority has held that the period for assessment is from 01.08.1991 to 31.07.1996, but in a specific term the Hon’ble Supreme Court has directed payment of contribution prospectively from 01.04.1999 for Jabalpur branch.

4. Learned counsel for the Provident Fund Organization could not make distinction of economic condition of Jabalpur branch and Muzaffarpur branch. By and large, both the units may be identical financial condition and the period under assessment is prior to 01.04.1999.

5. In view of this position, learned counsel for the Provident Fund Organization may be correct that the Act is applicable from the earlier date, but the question, in the present case, is payment of liability will be from 01.04.1999 or prior to that as there is no material brought before this Court to show that economic condition of Jabalpur branch and Muzaffarpur branch is not identical. In such circumstance, if one branch has been granted exemption in the matter of depositing the contribution prior to 01.04.1999, then it will not be appropriate for this Court to disturb the order of the Appellate Authority when the Appellate Authority has not dealt with the issue with regard to period after 01.04.1999. From the order of the Hon'ble Supreme Court, it is very much clear that applicability of the Act with regard to sisters are concerned to the Lijjat Papad they cannot be said to be, not the employees of the establishment, but the question is that the Provident Fund Organization will make an assessment only from 01.04.1999 and will not make any assessment prior to aforesaid date and in the present case assessment, in question, is involved prior to the aforesaid period, does not require interference by this Court.

6. In such view of the matter, this Court does not find any merit in this writ petition. Accordingly, the same is dismissed with the aforesaid observations.

(Shivaji Pandey, J)

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AFR/NAFR	N.A.F.R.
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