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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11724 OF 2016

The Central Board of Trustees EPF

.. Petitioner

Vs.

M/s. Wasp Pumps Pvt. Ltd.

.. Respondent

Mr. Suresh Kumar a/w Ms. Priyanka Tiwari for the petitioner.

Mr. Rahul Nerlekar for respondent.

CORAM : A.K. MENON, J.

DATED : 15TH JANUARY, 2019.

P.C. :

1. By this petition, the petitioners have challenged an order dated 30th September, 2014 passed by the Employees' Provident Fund Appellate Tribunal whereby the order impugned therein dated 26th November, 2013 was set aside and the amount of Rs.50,000/- was levied to be collected as the penal damages. The respondent was directed to recalculate interest payable in accordance with law within four weeks. The petitioner is aggrieved by the said order which, inter alia, reduces the amount of damages to Rs.50,000/-.
2. The order impugned in the appeal dated 26th November, 2013 at Exhibit C which inter alia sets out the numerous opportunities given to

the respondent establishment and observes that written representations made by them and the fact that a personal hearing had been granted to the Advocate for the respondent on 19th September, 2013 during which the respondents expressed it administrative and financial difficulties. The order records that administrative and financial difficulties cannot exempt the respondent from making payment to them and the order assessed damages payable at Rs.27,58,091/-.

3. In the course of urging the appeal, the appellate tribunal found that the order imposing damages and interest did not reveal reasons. Secondly, it was also found that the respondent Regional Provident Fund Commissioner had not complied with the directions of this Court in Writ Petition no.1947 of 2010 by order dated 5th July, 2012, in which the orders impugned being bereft of reasons, were set aside and the respondent-Assistant Provident Fund Commissioner was at liberty to initiate proceedings in accordance with law. In this background, the impugned order setting aside the order of the authority dated 26th November, 2013 while levying penal damages at Rs.50,000/- cannot be sustained. In my view it will be appropriate that the parties are relegated to fresh hearing before the authority which is expected to decide the case in accordance with law and after recording reasons.
4. In view of the above, impugned order will have to be set aside. In the

circumstances, I pass the following order;

- (i) The impugned orders dated 30th September, 2014 and 26th November, 2013 are hereby set aside.
- (ii) The Regional Provident Fund Commissioner-II shall grant a fresh hearing and decide the matter in accordance with law uninfluenced by the disposal of this petition.
- (iii) The parties shall appear before the Commissioner on 31st January, 2019 at 11.00 a.m. and the commissioner will issue appropriate directions.
- (iv) Petition is disposed.

(A.K.MENON,J.)

wadhwa