

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

WRIT PETITION NO.4930 OF 2018

The Central Board of Trustees, E.P.F.	... Petitioner
Versus	
M/s. Shetkar Shikshan Prasarak Mandal	... Respondent
.....	
Mr. Suresh Kumar a/w Smita Thakur, Priyanka Tiwari, Mohini Chaugule for the petitioner.	
Mr. A.P. Wachasundar for the respondent.	
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CORAM : M. S. KARNIK, J.

DATE : 10th APRIL, 2019.

P. C.:

1. Rule. Rule is made returnable forthwith by consent of the parties and heard finally.
2. Heard learned counsel for the petitioner and learned counsel for the respondent.
3. The petitioner by this petition filed under Articles 226 and 227 of the Constitution of India challenges an order dated 05.04.2017 passed by the Presiding Officer, Provident Fund Appellate Tribunal, New Delhi. By this order, an Appeal filed by the respondent came to be allowed. The respondent filed an Appeal before the Appellate Tribunal under Section 7-Q of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the said Act" for short) against

the order dated 30.10.2014 passed by the Provident Fund Authority under Sections 14-B and 7-Q of the Act. Upon reading of the order it appears that the Tribunal has proceeded to impose 60% of the damages on the respondent by following the principles laid down in **Roma Henny Security Services Pvt. Ltd. Vs. Central Board of Trustees, E.P.F. Organization through Assistant P.F. Commissioner, Delhi (North)** and case titled as **Assistant Provident Fund Commissioner EPFO & Anr. Vs. The Management of RSL Textiles India Pvt. Ltd. Civil Appeal No.96-97 of 2017 (SC)**. In the fact and circumstances of the case in hand, the Tribunal reached at a considered opinion that instead of remanding the matter back to the respondent for fresh assessment, interest of justice would be met by imposing 60 % of the assessed damages on the respondent alongwith entire amount of interest assessed under Section 7-Q of the said Act.

4. Now it is not in dispute that the decision of the Delhi High Court in **Roma Henny Security Services Pvt. Ltd.** (supra) has been set aside by the Hon'ble Supreme Court and the matter is remitted back to the Delhi High Court. Except placing reliance upon the decision in **Roma Henny Security Services Pvt. Ltd.** (supra), the Tribunal has not given any reasons in support of its conclusion.

5. Learned counsel for the respondent while supporting the order passed by the Tribunal submitted that the respondent had given adequate reasons in the Appeal Memo and before the authority as to why the Provident Fund contribution could not be paid in time. According to him, the said order is not perverse. He would invite my attention to Para 6.10 of the Appeal Memo where the reasons are set out by the respondent. He would therefore, submit that in these circumstances the Tribunal has rightly passed the impugned order. No interference is warranted according to him.

6. I find that though in the grounds in the Appeal Memo, the respondent set out the reasons why the contributions are delayed, however, in the impugned order, no reasons are recorded by the Tribunal for coming to this conclusion. The Tribunal has failed to record any reasons and in these circumstances, the Petition deserves to be allowed.

7. In this view of the matter, the impugned order is quashed and set aside. The Appeal is remitted back to the Tribunal to the C.G.I.T-2, Mumbai (since the C.G.I.T.-1 is vacant) for a fresh decision on its own merit and in accordance with law.

8. Rule partly made absolute.

9. All contentions on merits are kept open.

(M. S. KARNIK, J.)