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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 07.02.2019

+ W.P.(C) 1338/2015 & CM No.28517/2015
M/S V2 RETAIL LTD. Petitioner
Through: Mr.Vishwendra Verma, Adv.

versus

REGIONAL PROVIDENT FUND COMMISSIONER & ORS
..... Respondents
Through: Mr.Sanjay K. Shandilya, Adv.
for R-1 & 2.
Mr.Atul Batra, Adv. for R-3.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. Vide the present petition under Articles 226/227 of the Constitution of India, the petitioner has sought a direction to the Employees Provident Fund Appellate Tribunal to decide his application seeking a direction to the respondent no.1 to pay interest on the amount of Rs.3,41,78,702/- refunded back to him. In his application before the Tribunal, the petitioner had also prayed for a penalty to be imposed on the respondents.

2. Learned counsel for the petitioner states that the aforesaid amount which had been refunded back to the petitioner in November, 2014, had been deposited pursuant to orders passed

by the Tribunal in an Appeal filed by the petitioner, which was finally decided in the petitioner's favour vide order dated 25.02.2014. He states that immediately after the appeal was allowed, it was incumbent upon the respondents to refund to the petitioner the amount so deposited with interest. He submits that the respondents, however, refunded back the principal amount after an inordinate delay of almost 9 months and the petitioner was, therefore, constrained to move an application dated 04.12.2014 before the Tribunal seeking a direction to the respondents to pay interest on the deposited amount as also for payment of penalty for withholding the petitioner's amount without any justification. The petitioner's application however could not be taken up for hearing, as there was no Presiding Officer heading the Tribunal at that time, thereby compelling the petitioner to approach this Court by way of the present petition.

3. Today, learned counsel for the parties jointly state that the Appellate Tribunal is now functional and submit that since the matter relates to the interpretation of the orders passed by the Tribunal, it would be appropriate if instead of this Court deciding the issue, the Tribunal considers the petitioner's pending application in a time bound manner.

4. In my considered view, the suggestion of the learned counsel for the parties is fair and it would be more appropriate if the petitioner's application seeking grant of interest is

considered by the Appellate Tribunal, where the petitioner's application was originally filed and based upon whose orders, the petitioner has claimed interest and penalty on the refund amount. Accordingly, the writ petition is disposed of with a direction to the Appellate Tribunal to consider the petitioner's pending application stated to have been filed on 04.12.2014, expeditiously and preferably within a period of six months. In case, for any reason, the petitioner's application is not traceable, the petitioner is granted liberty to file another copy of the said application before the Tribunal.

5. The petition is disposed of along with the pending application in the aforesaid terms.

(REKHA PALLI)
JUDGE

FEBRUARY 07, 2019/gm