

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2093 of 2020

1. Food Corporation Of India, Through Divisional Manager, Divisional Office, Anugrah Bhawan, Maharana Pratap Chowk, Bilaspur, District : Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. Employees Provident Fund Organization, Through Central P.F. Commissioner, Head Office Bhavishya Nidhi Bhawan, 14 Bhikaiji Cama Place, New Delhi
2. Employees Provident Fund Organization, Through Regional Commissioner, Regional Office, Indira Gandhi Commercial Complex, Raipur Chhattisgarh

----- Respondents

For Petitioner	:	Dr. N.K. Shukla, Sr. Advocate along with Mr. R.S. Patel, Advocate.
For Respondents	:	None

Hon'ble Shri Justice P. Sam Koshy

Order on Board

25.09.2020

1. The petitioner in the present writ petition seems to be aggrieved by the memorandum issued to the petitioner's establishment by the respondent-organization dated 05.02.2020 (Annexure P-15); whereby the respondents have called upon the petitioner's establishment to immediately file the E.C.R/statutory returns against the assessed dues u/s 7(A) of the E.P.F. Act within a period of seven days.
2. The counsel for the petitioner submits that subsequent to the issuance of the letter, there has been no further development on the part of the respondents. The apprehension of the petitioner is that the respondent-authorities may now initiate prosecution case against the

petitioner u/s 76 (b) r/w section 14 (2) of the Act, 1952.

3. The primary contention of the petitioner is that the information sought for by the respondents is in-respect-of a depot which was hired by the petitioner. In the year 2012 for the operation of the said godown, the petitioner had engaged two contractors who in turn had engaged about 21 Hamaals for the smooth operation of the said godown. The contractors later stopped their work. According to the petitioner, the said godown has subsequently been closed by the F.C.I. way-back in the year 2016.
4. It was the contention of the petitioner that subsequently, the E.P.F organization raised a demand for the contribution of the E.P.F of the Hamaals and it was at that juncture the petitioner-corporation deposited the entire contribution payable on behalf of all the hamaals. The contention of the petitioner is that the liability was discharged by the petitioner's corporation for the employees' contribution as well as the employer's contribution for the reason that the contractor had in between left/abandoned the contract and thereby the petitioner's corporation had discharged the liability. And from 2016 onwards, the said depot stands closed and there is no operation whatsoever been done neither has any Hamaals or workers or employees directly or indirectly engaged by the petitioner at Akaltara Depot.
5. The counsel for the petitioner further submits that the respondent-organization seems to have issued Annexure P-15 dated 05.02.2020 under the presumption that the petitioner are the employers of these 21 workers for whom their contribution was deposited by the petitioner's corporation at one point of time whereas the petitioners

were only the principal employer.

6. Be that as it may, since the notice Annexure P-15 dated 05.02.2020 is only a memorandum calling upon the petitioner to furnish the E.C.R/statutory returns, this Court is of the opinion that it would be more appropriate, if the petitioner would be permitted to appear before the respondent-organization and submit their detailed information and documents that they have in their possession in-respect-of the hamaals engaged by the contractors at their Akaltara Depot and also in-respect-of the discharging of the liabilities on behalf of the contractors when the demand was raised by the respondent-organization. That after such details being furnished, the respondent-authorities are expected to take a decision purely in accordance with the provisions of the E.P.F Act.
7. With the aforesaid direction, the present writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge