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

\+ **W.P.(C) 6656/2020 and CM APPL. 23166/2020, 23167/2020**

CENTRAL BOARD OF TRUSTEES THROUGH ASSISTANT PROVIDENT FUND COMMISSIONER ..... Petitioner

Through: Mr. Balraj Dewan, Advocate.

versus

Vs. M/S. SIKH TIMES ..... Respondent

Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

O R D E R

% **18.09.2020**

1. This hearing has been held through video conferencing.

2. The present petition has been filed challenging the impugned order dated 14th November, 2019. The grievance of the Assistant Provident Fund Commissioner *(hereinafter 'APFC')* is that no reasons have been given by the Central Government Industrial Tribunal *(hereinafter 'CGIT')* for reducing the pre-deposit to 40%, instead of the statutorily provided 75% under Section 7(O) of the Employees Provident Fund & Miscellaneous Provisions Act, 1952 (*hereinafter, 'the Act')*.

3. Mr. Dewan, ld. counsel appearing for the Petitioner submits, that there are no reasons given in the impugned order for reducing the pre-deposit amount.

4. This Court has perused the impugned order and heard the ld. counsel. Section 7(O) of the Act reads as under:

> *"7-O. Deposit of amount due, on filing appeal.—No appeal by the employer shall be entertained by a Tribunal unless he has deposited with it seventy-five per cent. of the amount due from him as determined by an officer referred to in section 7A:*
> *Provided that the Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this section."*

5. As per the above provision, usually the Tribunal has to direct deposit of 75% of the assessed amount under Section 7A of the Act for entertaining of appeal. However, the proviso makes it clear that subject to reasons being recorded in writing, the said pre-deposit can be waived or reduced.

6. A perusal of the impugned order shows that the reasons given by the Tribunal are as under:

> *"In this regard be its stated here that for finding out a primafacie case the tribunal has to see if appellant has an arguable case. Here the only contention raised by the appellant to justify his primafacie stand is that his objection with regard to the number of employees was not duly considered by the APFC. Having regard to the quantum of the amount assessed under the impugned order and considering the submission advanced by the Ld. Counsel for both the parties and keeping in view the provision of law laid u/s 7 O of the Act, it is held that no case is made out for a total waiver of the pre-deposit. But in the facts and circumstances it is directed that the appeal be admitted subject to deposit of 40% of the determined amount within 6 weeks from the date of this order by the appellant failing which the appeal would stand dismissed. It is further directed that the interim protection order earlier granted shall continue till the time stipulated in this order for making deposit of the amount u/s 7O of the Act. If the appellant shall*

> *comply the direction given in this order the appeal shall be admitted and there shall be stay on execution of the impugned order till disposal of the appeal. Call on 08.01.2020 for compliance of the direction.*

7. From the above, it is clear that the Tribunal has reduced the pre-deposit amount to 40%, after considering the submissions made by the parties as also the Management. The same being a discretionary order, this Court does not find any reason to interfere with the same. Moreover, the submissions of both the parties have been duly recorded, which shows that the same were considered before passing of the impugned order. Accordingly, the impugned order is not liable to interfered with.

8. The present petition is accordingly dismissed. The question of law is left open.

PRATHIBA M. SINGH, J.

SEPTEMBER 18, 2020
MR/A