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

\+ W.P.(C) 4497/2015 & C.M. No. 8135/2015

CENTRAL BOARD OF TRUSTEES EPFO THR RPFC BHATINDA PUNJAB ..... Petitioner

Through Mr.Puneet Garg, Adv.

versus

FOOD CORPORATION OF INDIA ..... Respondent

Through Mr.Rajeev Sharma, Adv.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

<u>O R D E R</u>

% **21.01.2020**

1. The present petition filed by the Central Board of Trustees EPFO assails the order dated 16.03.2011 passed by the Employees' Provident Fund Appellate Tribunal in ATA No.523(11) 2008. Under the impugned order, the Tribunal has set aside the assessment order dated 20.06.2008 passed by the concerned Regional Provident Fund Commissioner under Section 14B of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as Act) whereunder damages and interest were levied on the respondent for making delayed deposit of its employees' provident fund.

2. The brief facts as are necessary for adjudication of the present writ petition are that the Regional Provident Fund Commissioner, Bhatinda after issuing a show cause notice to the respondent for levy of damages under Section 14 B of the Act, passed an order dated 20.06.2008 levying damages and interest on the respondent under Section 14 B & 7 Q of the Act. The said assessment order was

assailed by the respondent by way of an appeal before the Tribunal which came to be allowed under the impugned order. Upon a review petition being preferred by the petitioner, the impugned order dated 16.03.2011 came to be reviewed by the Tribunal vide its order dated 21.12.2012. Aggrieved by this review order, the respondent approached this Court by way of W.P.(C)No.7182/2013, wherein the review order was set aside by this Court vide its order dated 11.03.2015 by holding that the Appellate Tribunal was not vested with the power to review its order on merits. The present petition has thereafter been filed assailing the original order dated 16.03.2011 passed by the Tribunal.

3. Learned counsel for the petitioner submits that the impugned order is cryptic and fails to assign any cause for setting aside the assessment order, which was well reasoned. In fact, the only ground given by the Tribunal for concluding that the deposits were made on time was that it had perused the record placed before it. He submits that, therefore, this finding of the Tribunal is wholly without any basis, and does not even record or address the admitted stand of the parties as also the reasons given in the assessment order.

4. On the other hand, learned counsel for the respondent submits that the impugned order has been passed by the Tribunal after carefully considering and taking into account the entire record. He submits that once the petitioner failed to place any document on record, the Tribunal was justified in accepting the version of the respondent. He, therefore, prays that the writ petition be dismissed.

5. I have considered the submissions of learned counsel for the

parties and with their assistance perused the record.

6. Before dealing with the rival contentions of the parties, it is deemed appropriate to refer in extenso to the order dated 16.03.2011, vide which the respondent's appeal has been allowed:

> *"1. The appeal in this case is preferred against the order passed by the PF authority under Section 14B of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the 'Act') directing the appellant to deposit the damage and interest.*
>
> *2. The case of the appellant is that the appellant is an establishment covered under the Act. The establishment was making the EPF contribution. The EPF Authority initiated a proceeding under Section 14B of the Act alleging that there was delay in depositing the EPF contribution and without considering the circumstances levied the damage and interest. So, the impugned order is illegal.*
>
> *3. The case of the respondent is that as there was delay in depositing the EPF contribution by the appellant establishment the damage and interest was levied correctly.*
>
> *4. It is contended that the appellant was paying the EPF contribution regularly so the appellant is not liable to pay the dues.*
>
> *5. The learned advocate for respondent supported the impugned order.*
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> *6. The applicability of the EPF Act to the appellant establishment is not questioned. The advocate for appellant asserted that the appellant paid the dues and no dues were pending also there was no delay in depositing the EPF dues. The record filed before this tribunal shows that the deposit was made in time. So, there is no material on record to show that there was any delay in making the EPF contribution.*

> *7. Thus, in view of the discussion held above, the order of the Authority EPF Authority is hereby set aside. Hence ordered, the appeal is allowed the order of the EPF Authority is hereby set aside. Copy of order be sent to the parties and the file be consigned to record room.*

7. On perusing paragraph 6 of the impugned order, I find merit in the petitioner's contention that the Tribunal has set aside the assessment order without giving any cogent reasons for arriving upon such a decision. In fact, barring a simple statement to the effect that the respondent has paid all its dues on time, the impugned order fails to specifically refer to the specifics of such payment, i.e., the quantum of dues, the method of payment as and when they were paid, whereas the assessment order which was set aside by the Tribunal refers to all the relevant dates and also points out the respondent's lapses.

8. At the very least, the Tribunal, in exercise of its appellate jurisdiction and while setting aside a well-reasoned order passed by the Regional Provident Fund Commissioner, was expected to have dealt with the rival contentions of the parties and ascribe reasons for arriving at its findings, which is missing in the impugned order. The consequences of an adjudicating authority failing to lay down adequate and substantive reasons for arriving upon its findings have been reiterated by this Court on several instances. To make matters worse, in the present case, the Tribunal has made a cryptic reference to the rival arguments of the parties without even referring to the specifics of their submissions which, in the absence of detailed findings, could have provided some insight into the reasons which convinced the Tribunal to set aside the assessment order. In these

circumstances, I have absolutely no hesitation in setting aside the impugned order.

9. The writ petition is accordingly allowed and the matter is remanded back to the Tribunal. The parties will appear before the Central Government Industrial Tribunal on 17.02.2020. While exercising its appellate powers under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, the Tribunal will proceed to rehear the appeal and pass an order in accordance with law.

10. The writ petition, along with pending application, is disposed of in the aforesaid terms.

REKHA PALLI, J

JANUARY 21, 2020/sr