IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15727 of 2008

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1. Assistant Provident Fund Commissioner through Ajay Kumar, Employee Provident Fund Organisation, Regional Office, R. Block, Patna, P.S.- Sachiwala, Distt.- Patna.
2. Central Board of Trustees, Employees Provident Fund through the Regional Provident Fund Commissioner, Employees Provident Fund Organisation, Regional Office, Bhawishyanidhi Bhawan, R-Block, Road No. 6, Bihar, Patna- 800001.

... ... Petitioner/s

Versus

1. M/s Magadh Alluminium Industries through General Manager, at Khatangi Kothi, Post- Buniyadganj, District- Gaya.
2. Presiding Officer, Employee Provident Fund Appellate Tribunal, New Delhi.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Ravi Kumar, Advocate
For the Respondent No.1: Mr. Kumar Dhirendra Pratap Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA
ORAL JUDGMENT
Date : 01-12-2021

Heard learned counsel for the parties.

Admittedly, CWJC No. 5957 of 2009 came up for hearing before this Court. After detailed hearing, the matter was remanded to the Assistant Provident Fund Commissioner for fresh consideration in accordance with law. The operative part of the order dated 25th July, 2012, reads as under:

> *"The matter is remanded to the Assistant Provident Fund Commissioner for fresh consideration in accordance with law. The respondent would produce all required documents on which it was placing reliance, if not already produced, before the Assistant Provident Fund Commissioner within four months from the date of receipt/production of*

a copy of this order. In case the respondent does not appear before the Assistant Provident Fund Commissioner within the aforesaid time with required documents, the latter would be at liberty to decide the matter on the basis of the materials on record.

With the aforesaid observations and directions, this writ application stands disposed."

In the instant application, learned counsel for the petitioners has moved Interlocutory Application No. 01 of 2020 and placed the said order on record. His prayer is that in view of the orders passed in the aforesaid writ petition, this petition needs to be disposed off and remitted to the same authority i.e., the Assistant Provident Fund Commissioner.

Learned counsel for the respondents has only objection to the effect that in view of the order dated 6th February, 2008, passed in ATA Nos. 223(3) of 2005 by the Presiding Officer, Employees Provident Fund Appellate Tribunal, New Delhi, (Annexure-2) whereby it was held that the appellant was entitled to refund of the amount deposited pursuant to the direction of the Tribunal, the amount needs to be refunded to the respondent-establishment as the issue has, now, to be determined afresh.

Learned counsel appearing for the petitioners is agreeable to this proposal.

Under the circumstances, the order dated 22.08.2007 passed by the Presiding Officer, Employees Provident Fund Appellate Tribunal, New Delhi, in ATA Nos. 223(3) of 2005 (Annexure-1) is hereby set aside and the matter is remitted to the same authority for taking a decision afresh.

So far as the refund of the amount of Rs.80,000/- to the respondents-establishment in the light of the order dated 6th February, 2008 , passed in ATA Nos. 223(3) of 2005 by the Presiding Officer, Employees Provident Fund Appellate Tribunal, New Delhi, (Annexure-2) is concerned, the same should be refunded to the respondent-establishment.

The writ petition as well as Interlocutory Application No. 01 of 2020 stand disposed off in the aforesaid terms.

(Rajan Gupta, J)

J. Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
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