115

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-5550-2021
Date of decision : 17.03.2021

Punjab School Education Board

...Petitioner

Versus

Central Govt. Industrial Tribunal-I, Chandigarh-cum-Employees Provident Fund Appellate Tribunal, Chandigarh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. Barjesh Mittal, Advocate for the petitioner.

Mr. Sanjay Tangri, Advocate for respondent No.2.

(The proceedings are being conducted through video conferencing, as per instructions)

****

G.S. SANDHAWALIA, J. (ORAL)

The petitioner-Board challenges the interim order dated 22.11.2019 passed by the Appellate Tribunal in an appeal filed by it.

The appeal was filed under Section 7-I of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 against the order dated 11.10.2019 (Annexure P-1), whereby respondent No.2 had passed the order under Section 7-A of the Act levying the amount of Rs.9,13,80,107/- as EPF dues.

Alongwith the appeal, an application was filed for waiving 75% of the amount due which is required to be deposited which is a precondition as such for entertainment of the appeal. The Tribunal noticed that on filing of the appeal, recovery had already been done of the amount on 14.11.2019 by respondent No.2 and thus, came to the conclusion that right of the appellant to prefer the appeal had been encroached by the recovery of total assessed amount by respondent No.2. Resultantly, the benefit was given that 50% of the amount would be refunded to the petitioner within a period of 7 days from the said order and the directions have been given that no coercive measures have to be taken till the decision on the present appeal.

Notice has also been issued to respondent No.2 for filing of the reply to the main appeal as well as application under Section 7(O).

It is not disputed that in pursuance of the directions given in the interim order, a sum of Rs.4,56,00,000/- approximately has been refunded.

Learned counsel for the petitioner has vehemently submitted that the petitioner-Board is engaged in charitable activities and registered under Section 12-AA of the Income Tax Act, 1961 and, therefore, the benefits as such had to flow to it. He has submitted that the order of assessment passed by respondent No.2 on 11.10.2019 is flawed. He accordingly submits that the whole amount as such should have been refunded. It is not disputed that the appeal is now fixed for 18.06.2021.

As noticed, the impugned order was passed wayback on 22.11.2019 and more than a year has gone by.

Learned counsel for the petitioner has justified the said delay on account of the fact that COVID-19 pandemic had led to the shut down of the Courts which has led to the delay in filing of the appeal.

Keeping in view the fact that the order is only an interim order which is subject matter of the challenge, this Court is of the opinion that it would be appropriate in the facts and circumstances, at this point of time, to direct the Tribunal as such to decide the appeal on merits within a period of two months from the date which is fixed for hearing i.e. 18.06.2021 and the writ petition is not liable to be entertained to any further extent as it is only an interim order as such which the Tribunal had passed. The Tribunal has been indulgent enough as such, to the petitioner-Board and directed refund by keeping in view the prevalent case law.

On the said proposal, Mr. Sanjay Tangri, Advocate for respondent No.2 can have no such objection to the same.

Accordingly, the writ petition is disposed of with the abovesaid direction to the Tribunal.

17.03.2021 **(G.S. SANDHAWALIA)**
Pawan **JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**