137 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Review Appl.96-2021 in
CWP-25999-2019
Date of Decision: 19.04.2021

Punjab National Bank …Petitioner
Versus
Union of India and others …Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Sourabh Goel, Advocate,
for the applicant/respondent no.5

Mr. Saurav Verma, Advocate,
for petitioner no.1.

Mr. Akash Soni, Advocate
for petitioner no.2.

Mr. Rajesh Hooda, Advocate,
for respondents no.3 and 4

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AMOL RATTAN SINGH, J. (Oral)

Case heard by video conferencing.

By this application a review of the judgment passed by this court on 24.11.2020, in the accompanying petition, is sought by respondent no.5.

Learned counsel for the applicant has argued only two points, as follows:-

i. That at the end paragraph 21 of the aforesaid judgment, this court had observed as follows:-

> "21...................Yet, the Revenue not having pursued on the payment for a period of three years and thereafter the Provident Fund Commissioner having raised a demand for payment of dues to workers of M/s R.V.International Ltd., from the funds of that company deposited in the bank, in my opinion, the first charge under the Act of 1952 would take precedence even over a demand raised by the Central Excise, even prior in time, if such demand was not satisfied by the time that the demand by the Provident Fund Commissioner was raised.";

ii. He next refers to paragraph 25, wherein a direction had been issued by this court to respondents no.1 and 5, i.e. the applicants, that the amount deposited by the petitioner Bank with the Central Government Treasury (for onward transfer to respondents no.1 and 5), be paid within two months by the said respondents to respondent no.3 and 4, i.e. the Provident Fund Commissioner, in terms of the demand raised by the Provident Fund Commissioner upon the petitioner bank, *qua* the assets of M/s RV International, Ludhiana.

Learned counsel for the applicant submits that there is a contradiction in the aforesaid reproduced part of paragraph 21, in as much as the initial part thereof states that the revenue not having pursued on the payment for a period of three years and thereafter the Provident Fund Commissioner having raised a demand for payment, the 'first charge' provided under the Act of 1952 would take precedence even over the demand raised by the Central Excise prior in time, “if such demand was not satisfied by the time that the demand by the Provident Fund Commissioner was raised.”

As regards that contention I see absolutely no ground for reviewing the judgment in that respect, in as much as it is already stated very clearly therein that the demand raised by the Provident Fund Commissioner was after the demand initially raised by the Department of Excise, but the demand not having been satisfied <u>by that time</u> (i.e. by the time that the Provident Fund Commissioner had raised the demand), and therefore, the 'first charge' created under the Employees Provident Fund and Miscellaneous Provisions Act, 1952, would take precedence in favour of the Provident Fund Commissioner.

Learned counsel for the non-applicant/petitioner Bank has pointed out from Annexure P-10 with the accompanying petition that the money was remitted to the Central Government Treasury by the bank in terms of the demand earlier raised by respondent no.5, only on 22.05.2019, with Mr.Hooda, learned counsel for respondents no.3 and 4, pointing out that the demand raised by the Commissioner was on 20.03.2019 (reference paragraph 3 of the written statement filed on behalf of respondents no.3 and 4).

Nothing to the contrary has been pointed out by learned counsel for the review-applicant.

Hence, that contention by the applicant is rejected.

As regards the second contention, learned counsel submits that even as stated in paragraph 25 of the said judgment, the money had been remitted to the Central Government Treasury and consequently the applicant Department of Central Excise would not be in a position to actually themselves transfer the said money to the Provident Fund Commissioner in terms of the directions given.

That contention is found to be valid and reasonable in as much as if the money had not been transferred onward to the Department of Central Excise, by the Central Government Treasury, naturally it would be the Central Government Treasury which would be required to make the transfer of the entire amount remitted by the petitioner bank to it, *qua* the matter in question, to the Provident Fund Commissioner (respondents no.3 and 4).

Hence, such direction is now issued to the Central Government Treasury, if it has not already transferred the amount to respondents no.1/5, to transfer the amount to the Provident Fund Commissioner within a period of 2 months from today.

Naturally, if the Central Government Treasury had already transferred the amount further to respondents no.1/5, it would be those respondents who would then carry out the orders as already directed in paragraph 25 of the aforesaid judgment, immediately, the period of 2 months to do so since the passing of the judgment under review, being long past over.

The review application is disposed of as above.

April 19, 2021 **(AMOL RATTAN SINGH)**
dharamvir/ **JUDGE**

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO