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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 25th August, 2021
+ **W.P.(C) 8485/2021 & CM APPL. 26248/2021**
GAURAV ENTERPRISES Petitioner
Through: Ms. Maninder Acharya, Senior
Advocate with Mr. Tarkeshwar Nath,
Mr. Rajiv Shukla, Mr. Viplav
Acharya, Mr. Shikhar Kishore, Ms.
Shivani Kapoor and Mr. Sanjay
Kumar, Advocates.
versus
UNION OF INDIA & ORS. Respondents
Through: Mr. Shivanath Mahanta, Advocate for
R-2 & 3.
Mr. Rizwan, Advocate for R-4 to 9.
CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through video conferencing.
2. The present petition has been filed challenging order dated 3rd August, 2021 passed by the CGIT, by which the CGIT has refused to grant a stay in respect of the interest component imposed under Section 7Q of the Employees' Provident Fund & Miscellaneous Provisions Act, 1952 (*hereinafter*, "*EPF Act*") on the ground that no opinion can be formed at this stage as to whether the order which was passed by the original authority, i.e., the Regional Provident Fund Commissioner (*hereinafter*, "*RPFC*"), is a composite order under Sections 14B and 7Q of the EPF Act.
3. The brief background to this petition is that vide a common show-cause notice dated 23rd May, 2019, proceedings were initiated against the Petitioner under Sections 14B and 7Q of the EPF Act. The said show-cause

notice relates to alleged defaults occurring during the period from 1st November, 2013 till 31st March, 2019. The show-cause notice commences with the title - “Summons to appear for hearing u/s 14B of the EPF and MP Act, 1952 (and order for payment of interest u/s 7Q for 01/11/2013 to 31/03/2019”. In response to this show-cause notice, a common reply is filed by the Petitioner on 10th June, 2019. Thereafter, further submissions have also been made in the form of letters and documents on 11th June, 2019. After receipt of the documents, including *challans* which showed some deposits by the Petitioner, a revised notice was issued by the RPFC on 25th September, 2019, which is again a joint notice under Sections 14B and 7Q of the EPF Act. The revised computation is as under:

<i>Account</i>	<i>14B</i>	<i>7Q</i>	<i>Total</i>
<i>I</i>	<i>4329204</i>	<i>2843052</i>	<i>7172256</i>
<i>II</i>	<i>278671</i>	<i>179706</i>	<i>458377</i>
<i>X</i>	<i>2184113</i>	<i>1425243</i>	<i>3609356</i>
<i>XXI</i>	<i>127022</i>	<i>82281</i>	<i>209303</i>
<i>XXII</i>	<i>2480</i>	<i>1602</i>	<i>4082</i>
<i>Total</i>	<i>6921490</i>	<i>4531884</i>	<i>11453374</i>

(Rupees One Crore Fourteen Lakh Fifty Thousand Three Hundred and Seventy Four Only)

4. Common replies to the revised notice were again filed by the Petitioner on various dates between 2nd January, 2020 to 3rd June, 2021. Hearings have been held before the authority on various occasions. A perusal of the order sheets shows that they clearly mention that these are “Proceeding under Section 14B & 7Q of the EPF & MP Act, 1952”. Each order sheet which has been placed on record, dated 10th June 2019, 1st July, 2019, 9th January, 2020, 24th January 2020 and 10th September, 2020, shows

that a common order has been passed under Sections 14B and 7Q of the EPF Act.

5. However, thereafter, the RPFC chose to pass separate orders under Section 14B and Section 7Q. Under Section 14B, the total demand raised was to the tune of Rs.69,21,490/-. The order under Section 14B is passed on 26th May, 2021 and communicated to the Petitioner on 15th June, 2021. The order under Section 7Q is also passed on 26th May, 2021 and communicated to the Petitioner on 15th June, 2021. The total amount computed under Section 7Q is Rs.40,81,884/-. Thus, both orders bear the same date and have been communicated to the Petitioner on the same date.

6. Considering the said two orders as composite orders, the Petitioner approached the CGIT. The CGIT, while admitting the appeal, imposed a stay on the assessment of damages under Section 14B, subject to pre-deposit of 10% of the assessed amount of damages. However, insofar as the order under Section 7Q is concerned, no stay was granted. The operative portion of the CGIT's order is extracted herein below:

*“Hence in this case it is directed that there should be an interim stay on the execution of the impugned order levying damage, pending disposal of the appeal. But the said interim order cannot be unconditional. The appellant is directed to deposit 10% of the assessed amount of damage through challan within four weeks from the date of communication of this order as a precondition for stay pending disposal of the appeal. **It is made clear that there would be no stay on the interest assessed by the commissioner as no opinion can be formed at this stage whether it is a composite order or not.** Put up after four weeks i.e on 31st August, 2021 for compliance of the direction. Interim stay granted earlier shall continue till then.”*

It is this order that is under challenge before this Court.

7. The primary submission on behalf of the Petitioner is that the orders under Sections 14B and 7Q are composite orders as they arise out of the same show cause notice and the same proceedings. Though they are finally characterised as separate orders, they should be treated as one composite order.

8. Ms. Acharya, Id. Senior Counsel appearing for the Petitioner submits that the judgment of the Supreme Court in *Arcot Textiles Mills Ltd. v. Regional Provident Fund Commissioner & Ors., (2013) 16 SCC 1* is quite clear on two propositions. Firstly, that an order under Section 7Q of the EPF Act, when passed along with either an order under Section 7A or any other appealable order under Section 7I, for example an order under Section 14B, would be appealable under Section 7I. Vehement reliance is placed upon paragraphs 15 to 18 of the said judgment. Secondly, in the said judgement the Court holds that as there could be errors in computation under Section 7Q, the Petitioner ought to be heard before levying of interest.

9. Ms. Acharya, Id. Senior counsel also relies upon the practice of other EPF offices in Gurgaon, Faridabad as also the views taken by the CGIT (Mumbai) and CGIT (Delhi) to argue that all these offices follow the discipline of passing common orders. Reliance is placed upon an order passed by the CGIT, Delhi where an appeal has been admitted in a case where there are separate orders under Sections 14B and 7Q. However, some offices of the EPFO (Delhi) pass separate orders even though common inquiry is held, only in order to inconvenience the employer. She terms such practice of the EPFO as a '*mischief*'. Ms. Acharya concludes her submissions by stating that the order under Section 7Q is not an independent

order in the facts of this case, and hence, the appeal against the order under Section 7Q ought to be entertained by the CGIT.

10. The question as to whether interest is liable to be paid would be on the merits of the dispute. This Court put a query to counsels as to why the Petitioner ought not to be allowed to challenge the impugned demand under Section 7Q, before the Tribunal itself where the challenge to the Section 14B demand is pending, in view of *Arcot Textiles Mills Ltd. v. Regional Provident Fund Commissioner & Ors.*, (2013) 16 SCC 1.

11. Mr. Mahanta submits that *Arcot Textiles (supra)* is clear to the extent that if the orders are passed separately and are not composite in nature, no appeal is maintainable against the demand of interest under Section 7Q. Thus, he submits that in view of *Arcot Textiles Mills (supra)*, the Tribunal has refused to grant a stay in respect of Section 7Q and has only entertained the appeal in respect of Section 14B. Mr. Mahanta, ld. counsel, further submits that the judgment of the ld. Division Bench of this Court in *M/s Net 4 India Limited vs. Union of India & Anr. [W.P.(C) 6673/2016, decided on 2nd August, 2016]* clearly holds that an appeal would not be maintainable if an independent order is passed under Section 7Q. The judgement in *M/s Net 4 India (supra)* has been challenged and the same is pending adjudication before the Supreme Court. Ld. counsel also places reliance on the judgment of the Full Bench of this Court in *Roma Henny Securities Services Pvt. Ltd. v. Central Board of Trustees, E.P.F. Organization through Assistant P.F. Commissioner, Delhi (North) [W.P.(C) 831/2012, decided on 12th September, 2012]*, which has been remanded back for adjudication by the Supreme Court vide order dated 27th February, 2019 in *Civil Appeal No. 6592/2014* titled *Central Board of Trustees v. Roma Henny Securities*

Services Pvt. Ltd.. Thus, it is submitted that no opinion should be rendered in the writ petition on the issue of Section 7Q.

12. Finally, reliance is placed by Mr. Mahanta, ld. counsel on a recent order dated 9th November, 2020 of the CGIT, Delhi in **Appeal No. D-1/28/2020** titled **GAPL Automotive Ltd. v. APFC Delhi (East)**, wherein pursuant to a remand order dated 1st September, 2020 passed in **W.P.(C) 5864/2020** titled **GAPL Automotive Pvt. Ltd. v. APFC**, the Tribunal has taken the view that an order under Section 7Q cannot be challenged before the Tribunal. He also relies upon the judgment of the Guahati High Court in **W.P. No. 30(K) of 2016** titled **Shri Lhousakhotuo Vimero v. The State of Nagaland & Ors.** where the High Court has held that if a Tribunal lacks inherent jurisdiction, it cannot be bestowed with jurisdiction by any other mechanism. Mr. Mahanta, ld. counsel also relies upon paragraph 17 of the **Arcot Textiles Mills (supra)** to argue that if the order under Section 7Q is a separate order, it is not appealable under Section 7I.

13. The question that arises at this stage, at the outset is as to whether the order passed under Section 7Q ought to be treated as a composite order with the order passed under Section 14B of the EPF Act, in terms of the judgment of the Supreme Court in **Arcot Textiles Mills Ltd. (supra)**.

14. As per the scheme of the EPF Act, the EPF Authority passes an order under Section 7A, after holding an inquiry, if it is found that the employer has not deposited the amounts in terms of the Act. The order passed under Section 7A is appealable under Section 7I. In order to ensure compliance by employers with the provisions of the EPF Act in depositing the provident fund amounts for the welfare of their employees, there are certain stringent provisions that were introduced. These provisions were meant to dissuade

employers from not making/delaying deposits on behalf of employees. Two such provisions are Section 7Q and Section 14B.

15. Once the amount due by the employer is determined under Section 7A, the authority commences an inquiry under Section 7Q to determine as to whether interest would be liable to be paid on the belated or non-deposit of EPF dues. In addition, under Section 14, various penalties can be imposed on the employer. Under Section 14B, penalty can be levied on the employer, in the form of damages not exceeding the amount of arrears, for default in contributing to the provident fund. The question as to whether interest under Section 7Q would be liable to be paid once penalty by way of damages has been imposed under Section 14B is not the subject matter of this petition. The said issue is stated to be pending before a Full Bench of this Court in *Roma Henney (supra)*.

16. The EPF Authority, while determining the amount due under Section 7A, has the option to levy interest at that stage itself under Section 7Q. However, it is noticed that on most occasions, after the determination under Section 7A, a fresh inquiry is initiated for demanding interest and for imposition of penalty in the form of damages under Section 14B. An order passed under Section 14B is appealable to the Tribunal under Section 7I. However, no appellate remedy is provided in respect of a demand of interest raised against the employer under Section 7Q. There are several petitions filed before various High Courts challenging the demand for payment of interest imposed in terms of Section 7Q. Therefore, in case of orders passed under Sections 7Q and 14B, two forums i.e., the Tribunal and the High Court in a writ petition, adjudicate whether the demand for damages and interest, respectively, is valid or not.

17. The question as to whether a demand under Section 7Q is appealable to the Tribunal or not was considered by the Supreme Court in ***Arcot Textiles Mills Ltd. (supra)***. In the said case, the Supreme Court was dealing with an appeal from the Madras High Court wherein the High Court had held that the order of the EPF Authority raising a demand for interest under Section 7Q would have to first be assailed in appeal before the Tribunal and not by way of a writ petition. In ***Arcot Textiles Mills Ltd. (supra)***, while dealing with the scheme of the EPF Act and the appealable nature of the said order, the Supreme Court observed as under:

“12. This court in Maharashtra State Cooperative Bank Limited v. Assistant provident Fund Commissioner and others while interpreting the expression “any amount due from an employer” has opined as follows:-

“The expression “any amount due from an employer” appearing in sub-section (2) of Section 11 has to be interpreted keeping in view the object of the Act and other provisions contained therein including sub-section (1) of Section 11 and Sections 7-A, 7-Q, 14-b and 15(2) which provide for determination of the dues payable by the employer, liability of the employer to pay interest in case the payment of the amount due is delayed and also pay damages, if there is default in making contribution to the Fund. If any amount payable by the employer becomes due and the same is not paid within the stipulated time, then the employer is required to pay interest in terms of the mandate of Section 7-Q. Likewise, default on the employer’s part to pay any contribution to the Fund can visit him with the

consequence of levy of damages.”

13. We have referred to the aforesaid decision only for the purpose of the levy of interest under Section 7Q is a part of the sum recoverable under Section 11 (2) of the Act, and it is an insegregable part of the total amount due from employer.

14. At this juncture, it is relevant to state that the tribunal was constituted at a later stage. Section 7I provides for appeals to the tribunal. The said provision reads as follows:-

“7I. Appeals to Tribunal. – (1) Any person aggrieved by a notification issued by the Central Government, or an order passed by the Central Government or any authority, under the proviso to sub-section (3), or sub-section (4) of section 1, or section 3, or sub-section (1) of section 7A, or section 7B except an order rejecting an application for review referred to in sub-section (5) thereof, or section 7C, or section 14B, may prefer an appeal to a Tribunal against such notification or order.

(2) Every appeal under sub-section (1) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed.”

15. On a perusal of the aforesaid provision it is evident that an appeal to the tribunal lies in respect of certain action of the Central Government or order passed by the Central Government or any authority on certain provisions of the Act. We have scanned the anatomy of the said provisions before. On a studied scrutiny, it is quite vivid that though an appeal lies against recovery of damages under Section 14B of the Act, no appeal is provided for against imposition of interest as stipulated under Section 7Q. It is seemly to note here that Section 14B has been enacted to penalize the defaulting employers as also to provide reparation for the amount

*of loss suffered by the employees. It is not only a warning to employers in general not to commit a breach of the statutory requirements but at the same time it is meant to provide compensation or redress to the beneficiaries, i.e., to recompense the employees for the loss sustained by them. The entire amount of damages awarded under Section 14B except for the amount relatable to administrative charges is to be transferred to the Employees' Provident Fund. (see **Organo Chemical Industries and another v. Union of India and others**).*

16. Presently we shall refer to 7Q of the Act. It is as follows:-

“7Q. Interest payable by the employer.- *The employer shall be liable to pay simple interest at the rate of twelve per cent per annum or at such higher rate as may be specified in the Scheme on any amount due from him under this Act from the date on which the amount has become so due till the date of its actual payment:*

Provided that higher rate of interest specified in the Scheme shall not exceed the lending rate of interest charged by any scheduled bank.”

17. Ms. Aparna Bhat, learned counsel for the respondent Nos. 1 to 3 would contend that the payment of interest by the employer in case of belated payment is statutorily leviable and a specified rate having been provided, the authority has no discretion and, therefore, it is only a matter of computation and there cannot be any challenge to it. Be it noted, it was canvassed by the said respondents before the High Court that an appeal would lie against an order passed under 7Q. On a scrutiny of Section 7I, we notice that the language is clear and unambiguous and it does not provide for an appeal against the determination made under 7Q. It is well settled in law that right of appeal is

*a creature of statute, for the right of appeal inheres in no one and, therefore, for maintainability of an appeal there must be authority of law. This being the position a provision providing for appeal should neither be construed too strictly nor too liberally, for if given either of these extreme interpretations, it is bound to adversely affect the legislative object as well as hamper the proceedings before the appropriate forum. Needless to say, a right of appeal cannot be assumed to exist unless expressly provided for by the statute and a remedy of appeal must be legitimately traceable to the statutory provisions. If the express words employed in a provision do not provide an appeal from a particular order, the court is bound to follow the express words. To put it otherwise, an appeal for its maintainability must have the clear authority of law and that explains why the right of appeal is described as a creature of statute. (See: **Ganga Bai v. Vijay Kumar and others, Gujarat Agro Industries Co. Ltd. v. Municipal Corporation of the City of Ahmedabad and Ors., State of Haryana v. Maruti Udyog Ltd. and others, Super Cassettes Industries Limited v. State of U.P. and another, Raj Kumar Shivhare v. Assistant Director, Directorate of Enforcement and another, Competition Commission of India v. Steel Authority of India Limited and another**).*

18. After recording the legal position and the submissions made, the Supreme Court held as under:

“18. At this stage, it is necessary to clarify the position of law which do arise in certain situations. The competent authority under the Act while determining the moneys due from the employee shall be required to conduct an inquiry and pass an order. An order under Section 7A is an order that determines the liability of the employer under the provisions of the Act and while determining the liability the competent authority offers an opportunity of hearing to the concerned

establishment. At that stage, the delay in payment of the dues and component of interest are determined. It is a composite order. To elaborate, it is an order passed under Section 7A and 7Q together. Such an order shall be amenable to appeal under Section 7I. The same is true of any composite order a facet of which is amenable to appeal and Section 7I of the Act. But, if for some reason when the authority chooses to pass an independent order under Section 7Q the same is not appealable.”

Thus, as per *Arcot Textiles (supra)*, the position that emerges is:

- i. An order passed under Sections 7A and 7Q together, is a composite order and is appealable under Section 7I;
- ii. If any other composite order is passed, one facet of which is appealable, then even qua the other facet for which appeal is not provided, the appeal would be maintainable, if the order is composite;
- iii. If an independent order is however passed, no appeal would be maintainable in respect of the interest component under Section 7Q.

19. In *Arcot Textiles Mills Ltd. (supra)*, the Supreme Court was dealing with a standalone demand under Section 7Q. Thus, if an independent order is passed under Section 7Q, no appeal would lie and the only remedy that would then be available is in the form of a writ petition, the scope of which would be very limited.

20. A perusal of the practice being followed in other EPF offices, as also in the CGIT, Mumbai, which is reflected in the orders placed on record clearly shows that usually, common orders are being passed under Sections 7Q and 14B. Even if separate orders under Sections 7Q and 14B are passed,

the CGIT, Mumbai has taken the view in **CGIT-2/EPFA/51 of 2019** titled **M/s Hindustan Petroleum Corporation Ltd., Mumbai v. RPFC & Ors.** that the same would be appealable in view of the composite nature of the order. The CGIT, Delhi too in **Gorkha Securities v. RPFC, Delhi North** has admitted an appeal challenging separate orders passed under Sections 7Q and 14B and observed as under:

“Heard. Validity of the impugned order has been assailed on several factual and legal grounds which requires thorough examination of the record. It has been urged on behalf of the appellant that there was common proceedings under Section 14-B and 7-Q of the Act and however the Competent Authority bifurcated the order two parts, resulting in passing two orders as aforesaid. It is fairly settled that in case composite order is passed under Section 14-B and 7-Q of the Act, in that eventuality appeal under Section 7-1 of the Act is maintainable before this Tribunal. Hence, same is admitted for hearing subject to all just exceptions. ...”

21. The question that therefore arises in this case is whether the order under Section 7Q is an independent order or is it a composite order along with the order under Section 14B. To decide this issue, some facts are relevant to be noted:

- i) The show cause notice which was issued by the Authority was a common show cause notice with the title “*Summons to appear for hearing u/s 14B of the EPF and MP Act, 1952 (and order for payment of interest u/s 7Q for 01/11/2013 to 31/03/2019)*”.
- ii) A common reply was filed by the Petitioner, along with certain documents.
- iii) In light of the reply, a revised notice was sent to the Petitioner,

which was also a common notice titled “*Payment of Damages and Interest for the belated remittances under Section 14B and 7Q of the Employee's Provident Fund and Miscellaneous Provision Act, 1952-Regarding.*”

iv) The proceedings under Section 7Q and 14B were held together and the order sheet clearly describes the proceedings as being one under Sections 7Q and 14B – “***Proceeding under Section 14B & 7Q of the EPF&MP Act, 1952***”. Finally, however, two separate orders of the same date were passed under Sections 7Q and 14B.

22. In this factual background, the CGIT stayed the demand under Section 14B, subject to certain conditions, but did not render any finding on the composite nature of the orders or on the amount demanded under Section 7Q. The present writ petition has therefore been filed before this Court arguing that this finding of the Tribunal was incorrect.

23. Before adjudicating the issue at hand, it needs to be noted that the manner in which the EPF Authority firstly determines the amount due under Section 7A and thereafter, starts a completely new inquiry under Section 7Q as also under Section 14B, leads to enormous delays for the parties concerned. However, the journey does not end here. After determination of the amounts under Section 7Q and Section 14B, if demands are raised, the employer is to approach the Tribunal to appeal the order under Section 14B and approach the High Court, by way of a writ petition, to appeal the order under Section 7Q. Such an approach has various disadvantages. It firstly leads to multiplicity of proceedings filed before the Tribunal and before the High Courts. There is duplicity of legal representation in both forums and a possibility of contradictory findings being rendered. If the High Court's

decision is rendered earlier, it influences the decision of the Tribunal under Section 14B in some way or the other. On the other hand, if the Tribunal adjudicates on the demand under Section 14B earlier, the same may or may not be placed before the High Court and will again lead to separate and independent determinations. Once the Tribunal decides the validity and legality of the demand under Section 14B, the employer can again challenge the same under Article 226/227 before the High Court. This entire process results in enormous confusion, duplicity, inconvenience and harassment to employers and is counter-productive to the employee's interest.

24. As the facts of the present case would show, the initial order under Section 7A was passed on 31st December, 2014 demanding payments in respect of the period from 1st November, 2013 to 31st March, 2019. The proceedings under Sections 7Q and 14B have thereafter been commenced with one single Summons. The initial and revised notice, the replies and the proceedings conducted before the Authority were the same. There was no independent inquiry conducted in respect of the demands raised under Sections 7Q and 14B. In fact, by way of illustration, the revised notice which was issued on 25th September, 2019 tabulates the amounts due in a common tabular form, as extracted in paragraph 3 above.

25. Thus, when the inquiry is common, the show cause notice is common, the reply is common and even the proceedings are common, the mere passing of two separate orders on the same date would not render the proceedings under Section 7Q and Section 14B independent of each other. The entire attempt of the Authority appears to be to somehow ensure that the employer is not able to avail of the remedy of appeal, as permitted by the decision of the Supreme Court in *Arcot Textiles Mills Ltd. (supra)*. Such an

approach cannot be condoned by this Court. In the administration of justice, it has to be ensured by this Court, both in its power of superintendence and judicial review, that an Authority operating under a statute conducts itself in a manner that does not result in multiplicity and duplicity of proceedings which are likely to result in precious judicial time being expended, both before the Tribunal and before the Court. The possibility of contradictory approaches and conflicting findings would also be required to be curtailed. Thus, after determination of the amounts due under Section 7A, once the Authority proceeds to raise demands under Sections 7Q and 14B, it would be in the fitness of things that the employer is not made to face multiple proceedings and its remedies are not curtailed.

26. In fact, the Id. Division Bench of this Court in *M/s Net 4 India Limited vs. Union of India & Anr. [W.P.(C) 6673/2016, decided on 2nd August, 2016]* clearly holds that when interest under Section 7Q is included in an order passed under Section 14B, the same could be appealed under Section 7I. The relevant observation of the Id. Division Bench is set out below:

*“14. The Supreme Court in **Arcot Textile Mills Limited** (supra) had examined the scope and ambit of an order u/s 7Q and 7-I. After exhaustively examining the said provisions it was held that an appeal would not be maintainable against an order passed under Section 7Q, but when interest under Section 7Q is included in the order passed under Section 7A, 7B or Section 14B, the same could be made subject matter of challenge in the appeal, when an appeal is preferred against an order passed under the said sections.”*

27. Both, in the case of proceedings under Section 7Q and Section 14B, the Authorities are required to hear the employer. In *Arcot Textiles Mills*

Ltd. (supra), the Supreme Court has rejected the submission that computation of interest is only an arithmetic calculation. Thus, when both demands under Sections 7Q and 14B require the employer to be heard and common proceedings are held, the passing of separate orders is completely avoidable. In fact, for the reasons stated above, the Authority ought to encourage the passing of composite orders rather than formal independent orders only to prevent the employer from challenging the order under Section 7Q before the Tribunal.

28. Insofar as the order dated 9th November, 2020 passed by the CGIT, Delhi in *Appeal No. D-1/28/2020* titled *GAPL Automotive Ltd. v. APFC Delhi (East)*, is concerned, the said order was pursuant to the order passed by this Court on 1st September, 2020 in *W.P.(C) 5864/2020* titled *GAPL Automotive Pvt. Ltd. v. APFC*, wherein a direction was given to the CGIT, Delhi to pass a comprehensive order on merits. The order passed by the CGIT, Delhi appears to be on the issue of maintainability rather than on merits. The same would have no binding effect on the decision in the present case.

29. In the facts of this case, this Court has no doubt in holding that the genesis of the demand being a common notice and the proceedings having been held together, the mere passing of two separate orders would not render the order under Section 7Q unappealable under Section 7I. In fact, while considering the appeal filed by the Petitioner, the CGIT ought to have rendered an opinion in this regard and could not have postponed giving a finding on whether the two orders would be treated as one composite order. The order passed by the CGIT clearly shows that the CGIT itself was unclear as to whether it was a composite order or not and simply postponed

adjudication of the same, leading to the filing of the present writ petition.

30. Under the facts and circumstances of this case, this Court holds that the appeal challenging the orders passed under Sections 7Q and 14B is maintainable before the Tribunal. The proceedings are common and the orders passed under Sections 7Q and 14B are a composite order, which, as per the judgment of the Supreme Court in *Arcot Textiles Mills Ltd. (supra)*, would be amenable to an appeal under Section 7I.

31. The writ petition is allowed in the above terms. All pending applications are disposed of.

32. Parties to appear before the CGIT on 20th September, 2021. Until then, no coercive measures shall be taken against the Petitioner in respect of the interest amount imposed under Section 7Q of the EPF Act.

PRATHIBA M. SINGH
JUDGE

AUGUST 25, 2021

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(corrected and released on 31st August, 2021)