

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.7692/2018

Central Board of Trustees and Anr. Vs. Jay Bharat Textiles and Real Estate Limited

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 Office Notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders

Court's or Judge's order

Mr. H. N. Verma, Advocate for Petitioners.

CORAM : AMIT B. BORKAR, J.

DATED : 06th SEPTEMBER, 2022.

. Heard.

2. The order dated 22.02.2017 passed by Employees' Provident Fund Appellate Tribunal, New Delhi in an Appeal under Section 7-I of Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the EPF Act") is the subject matter of the challenge.

3. This Court, on 12.03.2019, issued notice to the respondent. The Office report shows that the respondent was served on 11.06.2019. Despite service, the respondent fails to appear either personally or through Advocate. Therefore, the petition is being decided on merits.

4. On 24.06.2013, the respondent was issued the notice under Section 7A of the EPF Act. The Managing Director appeared in the proceeding and sought time to produce relevant documents. On 27.06.2012, the

Enforcement Officer filed a report supplying a copy to the respondent stating that the PF dues of the respondent are to the tune of Rs.1,19,90,859/- for the period October 2008 to May 2012. Based on the report, on 20.11.2014, an order was passed adjudicating the PF dues at Rs.1,19,90,859/-. The respondent preferred to appeal against the said order. The Employees' Provident Fund Appellate Tribunal allowed the appeal holding that there are no documents on record to show the actual strength of employees, as shown in the impugned order.

5. Mr. Verma, learned Advocate for petitioners, invited my attention to the order passed under Section 7A of the EPF Act, pages 2 and 3, which refers to the documents produced on record before the Regional Provident Fund Commissioner. Page 2 refers to a series of documents from Sr. No.1 to 10. Therefore, it is clear that the documents on pages 2 and 3 of the order under Section 7A of the EPF Act were on the record. However, while allowing the appeal, the Tribunal has recorded an incorrect factual finding that there are no documents to show the actual strength of employees, as shown in the impugned order. Therefore, it is clear that the material documents are ignored by the Tribunal while allowing the appeal. With the results, the proceedings are required to be remanded back to the Appellate Authority for decision afresh.

6. I, therefore, pass the following order :

- i] The impugned order dated 22.02.2017 passed by the Employees' Provident Fund Appellate Tribunal, New Delhi in Appeal No.ATA 1346(9)/2014 is quashed and set aside.
- ii] The proceeding is remanded back to the Central Government Industrial Tribunal cum Employees Provident Fund Appellate Tribunal, Nagpur for a decision afresh.
- iii] The Appellate Authority shall decide the matter afresh after considering the documents produced before the Regional Provident Fund Commissioner after giving the opportunity of hearing to both sides.

7. The Writ Petition is disposed of accordingly.
No order as to costs.

JUDGE

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