

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

WRIT PETITION NO. 6764 OF 2018

The Central Board of Trustees,
Employees Provident Fund Organization,
Having Office at Bhavishya Nidhi Bhawan,
Bhikaji Cama Place, New Delhi,
Through The Regional Provident Fund
Commissioner, Employees Provident Fund
Organization, Sub-Regional Office, Akola.

.... **PETITIONER**

// VERSUS //

M/s. Oberoi Construction Company,
At Parva, Post. Talegaon, District :
Yavatmal (Maharashtra), through
its Authorized Signatory.

.... **RESPONDENT.**

Shri H.N.Verma, Advocate for Petitioner.
None for the Respondent.

CORAM : ANIL S. KILOR, J.
DATED : JUNE 14, 2023.

ORAL JUDGMENT :

1. Heard learned counsel for the petitioner. None for the respondent, though served.

2. **RULE.** Rule made returnable forthwith.

3. By this petition, under Articles 226 and 227 of Constitution of India, the petitioner is challenging order dated 11/08/2016, passed by the Employees Provident Fund Appellate Tribunal, New Delhi in Appeal No. ATA 1164(9) of 2015.

4. Perusal of the impugned order shows that the subject matter of challenge was the order passed under sections 14-B and 7-Q of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 ("Act" for short).

5. As regards provisions of Section 14-B of the Act, it appears that the learned Tribunal has placed reliance on the judgment of the Delhi High Court in the case of *System & Stamping and Anr. Vs. Employees' Provident Fund Appellate Tribunal and Ors.*, reported in (2008)2 LLJ 939. The learned Advocate for the petitioner invited my attention to the judgment delivered by Hon'ble Apex Court in **Civil Appeal No. 6592/2014** in the case of *Central Board of Trustees Vs. Roma Henny Security Services Pvt. Ltd.* The Hon'ble Apex Court, while holding that the High Court of Delhi has failed to consider clause 32-A of the Employees Provident Fund Scheme, 1952, had remanded the proceeding back to the High Court. Therefore, it is the submission of the learned Advocate for the petitioner that the basis of order

impugned is no longer in existence and therefore, the learned Tribunal needs to consider the issue of payment of damages under section 14-B of the Act.

6. Undisputedly, the judgment in the case of *System & Stamping and Anr. Vs. Employees' Provident Fund Appellate Tribunal and Ors* (supra) has been set aside by the Hon'ble Apex Court, and therefore, it is necessary to the learned Tribunal to reconsider the issue of payment of damages under section 14-B of the Act, afresh.

7. Accordingly, I pass the following order:

- i) The Writ Petition is partly allowed.
- ii) The impugned order dated 11/08/2016, passed by the Employees Provident Fund Appellate Tribunal, New Delhi in Appeal No.ATA 1165(9) of 2015 is quashed and set aside.
- iii) The proceeding is remanded to the learned CGIT, Nagpur for reconsideration on payment of damages under section 14-B of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952.

The writ petition is **disposed of** accordingly. No order as to costs.