

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-20043, 20045-CWP-2023 in/and
CWP-20697-2011 (O/M)
Date of decision : 29.11.2023

Holy Angel School

..... Petitioner

Versus

The Assistant Provident Fund Commissioner and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Amit Jain, Advocate
for applicant-petitioner.
Mr. Gaurav Tangri, Advocate
for respondent No. 1.

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HARSH BUNGER, J. (ORAL)

1. Petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India, inter alia, seeking a writ in the nature of certiorari for quashing the impugned order dated 07.07.2011 (Annexure P-21), passed by Employees Provident Fund Appellate Tribunal, New Delhi (respondent No. 2).
2. After arguing for some time, learned counsel for petitioner, on instructions from petitioner-School, submits that he does not raise any dispute regarding the matter being remanded by the Appellate Tribunal to the Authority below; however, his only grievance in this matter is regarding direction issued by the Appellate Authority, while remanding the case back to the Authority below, which reads as under :-

“ Hence, ordered the matter is remanded to authority to assess the liability at the rate of 37% per annum inclusive of interest. The appellant is directed to appear within 1 month of this order

before the authority failing which the matter be disposed off as per law, copy of the order be sent to the parties and record be consigned to record room.”

3. In reference to the above extracted portion of the impugned order, learned counsel for petitioner contends that once the Appellate Authority has considered the matter and decided to remand the same, no direction could have been issued to the Authority below to decide the matter in a particular manner, which in the instant case is to assess the liability at the rate of 37% per annum inclusive of interest.

4. On the other hand, learned counsel for respondent-Department has not raised any serious dispute to the aforesaid contention of learned counsel for petitioner and rather submits that once the matter has been remanded, the matter shall be decided in accordance with law.

5. I have heard learned counsel for respective parties and have perused the paperbook with their able assistance.

6. Upon considering the submissions of the learned counsel for respective parties, I am of the considered view that once the Appellate Authority has remanded the matter to Authority below for deciding the same as per law, then no direction could have been issued to decide the matter in a particular manner, which in the instant case is to assess the liability at the rate of 37% per annum inclusive of interest.

7. In view of the above, while upholding the remand order dated 07.07.2011 (Annexure P-21), passed by Appellate Authority, the direction issued by the Appellate Authority to the Authority below to assess the liability at the rate of 37% per annum inclusive of interest is hereby quashed. It shall be upon the concerned authority to

decide the matter afresh in accordance with law after affording due opportunity of hearing to parties concerned.

8. The instant writ petition is disposed of in the aforestated terms.
9. All pending application (s), if any, shall stand closed.

(HARSH BUNGER)
JUDGE

29.11.2023
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No