



213

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-14354-2000 (O&M)
Date of Decision: 19.11.2024

REGIONAL PROVIDENT FUND COMMISSIONER FARIDABAD
..... Petitioner

Versus

THE EMPLOYEES PROVIDENT FUND APPELLATE
TRIBUNAL AND ANR. Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Anupam Singla, Advocate and
Mr. Lalit Goyal, Advocate
for the petitioner.

Mr. Ravi Gakhar, Advocate and
Mr. Devyansh, Advocate for
Mr. Jagdish Manchanda, Advocate
for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 25.05.2000 (Annexure P-4) whereby Appellate Tribunal under Employees' Provident Funds and Misc. Provisions Act, 1952 (for short '1952 Act') has set aside order passed by Assessing Authority.

2. The respondent applied for allotment of code under 1952 Act on 22.09.1997 and it was actually allotted on 31.03.1999. The respondent was liable to deposit its contribution from 22.09.1997 whereas it deposited its contribution after getting code from Provident Fund Authorities. On account of delayed deposit of contribution, the petitioner-Provident Fund Authorities imposed damages to the tune of Rs.20,093/-, under Section 14B of 1952 Act upon the respondent who preferred an



appeal before Appellate Tribunal against the order dated 16.11.1999 whereby damages were imposed. The Appellate Tribunal has set aside order passed by Assessing Authority.

3. The findings recorded by Appellate Tribunal are reproduced as below:

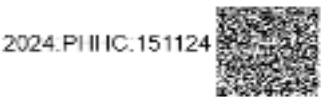
“1. For appellant Shri M.M. Kaushal, Advocate and for respondent Sh. Sanjiv Das, Advocate.

2. This is an appeal against order dated 16.11.1999 passed under Section 14B of the EPF & MP Act, 1952 (hereinafter referred to as the Act) for delayed deposit of PF contribution for the period from September, 1997 to November, 1998.

3. The contention of the appellant before the 14B authority and in this appeal is that the appellant applied for allotment of a code number on 22.9.1997 and it was allotted only on 31.3.1999. The appellant was waiting for allotment of a code number wherein to deposit the amount. But he was not allotted a code number and E.O. Shri Kalra in November, 1998 advised to deposit the amount without a code number and then forthwith appellant deposited the PF contribution.

4. The learned 14B authority held that employer should have started compliance with the provisions of the Act even though no code number was allotted and when he has committed a default he is liable to pay the penalty. The learned counsel for both the sides before me also have put the contention of their respective parties.

5. On similar facts in a Bombay case Hon'ble Bombay High Court has held that unless a code number is allotted deposit of PF contribution is not possible because the code number is to be mentioned in all the returns and statements and also in challan numbers. Under the rules no such provision has been shown where it is mentioned Challan that



PF contribution should be deposited by the employer even if no code no. Is allotted. The Hon'ble Bombay High Court further held that although the member of the scheme suffers a loss but that loss is to be recovered from the officer who has delayed in allotting a code number. I am also of the view that it is not possible for the employer to deposit amount of PF contribution without allotting a code number and if the code number when an application is moved by an employer to allot same, any loss suffered by the member Department should be recovered from the officer responsible for the delay. The appeal is fit to be allowed and the impugned order to be set aside.”

4. Mr. Anupam Singla, Advocate for the petitioner submits that there are judgments of different Courts contrary to judgment of Bombay High Court. The Appellate Tribunal has wrongly relied upon judgment of Bombay High Court.

5. Concededly the amount involved is Rs.20,093/- and there is at-least one judgment of High Court which squarely covers grievance of the respondent. Considering the amount involved and paras 50-52 of judgment of Supreme Court in **Central Council for Research in Ayurvedic Sciences and another v. Bikartan Das and others, 2023 SCC OnLine SC 996**, this Court does not find it appropriate to interfere with the impugned order.

6. Dismissed.

7. Pending misc. application, if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

19.11.2024
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No