

Neutral Citation No:2024:PHHC:060451
CWP-10303-2015 1
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

224 **CWP-10303-2015**
Date of Decision: 01.05.2024

EMPLOYEES PROVIDENT FUND ORGANISATION
.... Petitioner

Versus
UNIVERSAL STEEL DISC PVT. LTD AND ANR
....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Rajesh Hooda, Advocate for the petitioner.

None for respondents.

SANJAY VASHISTH, J.(Oral)

1. Present writ petition has been filed by the petitioner- Employees Provident Fund Organisation , Bhavishya Nidhi Bhawan, Karnal, challenging the order dated 26.11.2014 (Annexure P-4), passed by the Employees Provident Fund Appellate Tribunal, New Delhi, whereby appeal filed by respondent No.1-Universal Steel Disc Pvt. Ltd., has been accepted.

2. Vide impugned order dated 26.11.2014 (Annexure P-4), the Employees Provident Fund Appellate Tribunal held that respondent No.1 cannot be held liable for the payment of the premium, which has already been paid by it. It is also recorded that the liability cannot be fastened because no loss has been caused to the

Regional Provident Fund Commissioner, Karnal and held that the order for assessing the demand against action of non seeking the prior permission for relaxation is not valid. Learned counsel for the petitioner submits that in support of the submissions addressed by respondent No.1 before Appellate Tribunal, no documentary evidence was placed on record, therefore, the said exemption under Section 17 (A) of The Employees' Provident Fund and Miscellaneous Provisions Act, 1952 cannot be granted to respondent No.1.

3. It appears that after hearing the arguments, by agreeing to some extent, Co-ordinate Bench of this Court vide its order dated 04.05.2018, directed respondents to produce the relevant documents to show that they had resorted to LIC instead of EDLI Scheme (Employees Deposit Linked Insurance Scheme). For the sake of convenience, the aforesaid order is reproduced herebelow:

*“Present: Mr. Rajesh Hooda, Advocate
for the petitioner.
Mr. Ajay Bhardwaj, Advocate for
Mr. Vivek Salathia, Advocate
for Respondent No.1.*

Short question for consideration in the present petition is whether respondents have taken exemption under Section 17 of the EPF Act insofar as seeking exemption for contribution of EDLI. Perusal of the records, it is evident that respondents have resorted to LIC policy instead of EDLI. No material has been produced in respect of LIC. On the other hand, perusal of the EPFAT order, it reveals that LIC have filed an application for exemption in respect of respondent-Universal Steel Disc. Pvt. Ltd. Therefore, respondents are hereby directed to produce relevant document to show that they

had resorted to LIC instead of EDLI, on the next date of hearing.

List this matter on 16.07.2018.

May 04, 2018

**(P.B. BAJANTHRI)
JUDGE”**

4. Considering the fact that neither respondent No.1 is appearing before this Court; nor any compliance is being made, certain observations were recorded by this Court on 06.09.2023. Considering the regular absence of the respondent No.1 before this Court, respondent No.1 was proceeded against ex-parte vide order dated 14.11.2023, which says as under:

*“Present: Mr. Rajesh Hooda, Advocate
for the petitioners.*

None for respondent No.1.

On 06.09.2023, the following order was passed:-

“ Learned counsel appearing on behalf of respondent No.1 seeks an accommodation on the ground that the arguing counsel is unwell. However, the said request is opposed by learned counsel for the petitioner by stating that adjournments have been sought for repeatedly on behalf of learned counsel for respondent No.1 and order dated 04.05.2018 has also not been complied with, till date.”

Aforesaid order dated 04.05.2018 passed by this Court reads as under:-

“ Short question for consideration in the present petition is whether respondents have taken exemption under Section 17 of the EPF Act insofar as seeking contribution of EDLI. Perusal of the records, it is evident that respondents have resorted to LIC policy instead of EDLI. No material has been produced in respect of LIC. On the other hand, perusal of the EPFAT order, it reveals that LIC have filed an application for exemption in respect of respondent Universal Steel Disc Pvt. Ltd.

Therefore, respondents are hereby directed to produce relevant document to show that they had resorted to LIC instead of EDLI, on the next date of hearing. List this matter on 16.07.2018.”

A perusal of file reveals that indeed the matter has been adjourned repeatedly either on account of request made by learned counsel for respondent No.1 or on account of non-representation on behalf of respondent No.1. Rather on 19.05.2022, it was clarified by a co-ordinate Bench of this Court that no further adjournment shall be granted on the next date of hearing for any reason whatsoever and the case shall be considered/decided irrespective of the presence/arguments on behalf of respondent No.1.

Since adjournment is being sought today on the ground that the arguing counsel is unwell, I refrain from imposing any cost.

At request of learned counsel appearing on behalf of respondent No.1, adjourned to 19.10.2023.

It is made clear that no further adjournment shall be afforded.”

There is no representation on behalf of respondent No.1. The order dated 04.05.2018 has also not been complied with.

In view of above, respondent No.1 is proceeded against ex parte.

Registry is directed to convey this order to the learned counsel for respondent No.1.

List on 01.05.2024 for final arguments.”

14.11.2023

**(HARSH BUNGER)
JUDGE”**

Today again, there is no representation on behalf of the respondents, even in compliance to the directions dated 14.11.2023, there is an office note by the Registry that “**letter to counsel has been sent with orders for respondent No.1**”

5. Considering the submissions, conduct and careless attitude of respondent No.1 regarding non-compliance of the

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directions, this Court is left with no other option except to rely upon the contentions of the petitioner, which is addressed and recorded hereabove.

Therefore, impugned order dated 26.11.2014 (Annexure P-4) is hereby set aside and the present petition stands allowed.

May 01, 2024

rashmi

Whether speaking/reasoned

Whether reportable?

[SANJAY VASHISTH]

JUDGE

yes/no

yes/no