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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 1333/2017 and CM APPL. No.6102/2017

**CENTRAL BOARD OF TRUSTEE THROUGH ASSISTANT
PROVIDENT FUND COMMISSIONER, DELHI (NORTH)**

..... Petitioner

Through: Braja Bandhu Pradhan, Advocate

versus

M/S ONE CITY PROMOTERS PVT. LTD. Respondent

Through: Mr.Abhijeet Sinha, Sarthak Gaurav,
Ms. Rimmi Bharadwaj, Advocates
Mr. Rishikesh Kumar, ASC GNCTD
(DCF West)

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

05.02.2024

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1. The petitioner vide the present petition under Article 226/227 of the Constitution of India, seeks the following prayers:

*“ I. Issue a writ of certiorari and/or any other appropriate writ quashing the impugned order dated 26.11.2015 passed by the Respondent No.2 in ATA No. 119(4)2011 titled “M/s One City Promoters Pvt. Ltd. (Regd.)Vs.Assistant Provident Fund Commissioner”; and
II. Pass such other and further orders as this Hon’ble Court may deem fit and property in the facts and circumstances of this case.”*

2. Learned counsel appearing on behalf of the parties submitted that the issue involved in the instant petition has already been settled by the Hon’ble Supreme Court vide order dated 27th February, 2019 passed in Civil Appeal no.6592/2014 titled “ *Central Board of Trustees V. Roma Henny*



Security Services Pvt. Ltd.”.

3. It is further submitted that vide this order, the Hon’ble Supreme Court had set aside the judgment and order dated 12th September, 2012 of the Full Court of this Court passed in W.P.(C) 831/2012 titled “*Roma Henny Security Services Pvt. Ltd. V. Central Board of Trustees, E.P.F. Organization Through Asstt. P.F. Commissioner, Delhi(North)*” observing to the effect :

“ The High Court has also not taken into consideration whether Clause 32-A of the Scheme can be taken to include interest when provision for interest 7Q was not in force. It has also not gone into the question whether the Circular of 1990 can prevail upon the statutory provisions contained in Clause 32-A of the Scheme which prescribes the rate of damages. Question is whether damages so specified include the component of interest. May be that 1990 Circular included the component of interest in rate of damages but that was not so provided under the Statutory provisions of Clause 32-A of Scheme. The effect of provisions of Section 7Q as inserted in 1997 is also required to be considered.”

4. In view of the above observations made by the Hon’ble Supreme Court, the matter was remanded back to this Court to reconsider the effect of Clause 32-A of the Scheme keeping in mind the above said questions which had not been dealt with by the Full Bench of this Court on earlier occasion.

5. Learned counsel appearing on behalf of the petitioner submitted that the petitioner authority has passed the impugned order dated 26th November, 2015 in accordance with the EPF Act and other relevant laws. It is also submitted that there is no illegality in the entire process to levy the damages and interest upon the respondents and the order dated 15th December, 2010



is in accordance with law.

6. It is submitted that in view of the order dated 27th February, 2019 passed in Civil Appeal No.6592/2014, the instant writ petition may be allowed and the impugned order dated 26th November, 2015 be set aside.

7. Learned counsel appearing on behalf of the respondent has no objection to the submissions made by the learned counsel appearing on behalf of the petitioner and also prayed that the writ petition be decided in light of the observations/directions made by the Hon'ble Supreme Court in the case *Roma Henny Security Services Pvt. Ltd.* (supra).

8. Heard the learned counsel appearing on behalf of the parties and perused the record including the impugned order dated 26th November, 2015 passed by the petitioner authority in the instant case as well as the order/judgment passed by the Hon'ble Supreme Court in *Roma Henny Security Services Pvt. Ltd.* (supra) setting aside the order passed by the Full Bench of this Court in "*Roma Henny Security Services Pvt. Ltd. V. Central Board of Trustees, E.P.F. Organization Through Asstt. P.F. Commissioner, Delhi(North)*" in W.P.(C) No. 831/2012 dated 12th September 2012.

9. After considering the submissions made by the learned counsel appearing on behalf of the parties as well as the law laid down by the Hon'ble Supreme Court in the case *Roma Henny Security Services Pvt. Ltd.*(supra) the impugned order dated 26th November, 2015 is set aside.

10. Accordingly, the instant petition is allowed and the accompanying applications, if any, are also disposed of.

CHANDRA DHARI SINGH, J

FEBRUARY 5, 2024

SV/DB

[Click here to check corrigendum, if any](#)