**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

223 **CWP-1592-2012 (O&M)**
Date of Decision :19.02.2025

Regional Provident Fund Commissioner **...Petitioner**

Versus

M/s Pahwa Chains Pvt. Ltd. and another **...Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sanjay Tangri, Advocate for the petitioner.

Mr. Vaibhav Sharma, Advocate for respondent No.1.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, challenge is to the order dated 12.07.2011 (Annexure P/3) passed by the Presiding Officer, Employees' Provident Fund Appellate Tribunal (in short 'Tribunal') by which, order passed by the Assistant Provident Fund Commissioner dated 18.11.2019 (Annexure P/1) has been modified so as to assess the liability of the respondent-Establishment @ 22 % along with interest.

2. Learned counsel for the petitioner submits that once there is a default in depositing all the EPF liability by respondent-Establishment, order can be passed by the authorities concerned under Section 7-A of the Employees Provident Fund & Miscellaneous Provisions Act, 1952 (in short,' 1952 Act') to determine money due from employer and the same was

passed by the authority concerned vide order dated 18.11.2019 (Annexure P/1) within a framework of 1952 Act and hence, there was no occasion with the Appellate Tribunal to modify the said order.

3. Learned counsel for respondent-Establishment submits that since the default was not voluntary in nature but was a forced one keeping in view the fact of labour unrest and lockout of the respondent-Establishment and until the said incident happened, the liability imposed on respondent-Establishment under the EPF was deposited by the respondent-Establishment regularly without fail.

4. Learned counsel for respondent-2 submits that the extra ordinary circumstances in which, respondent-Establishment was involved have been noticed and appreciated by respondent No.2 and hence, such an order has been passed by the same, which order has already been complied with as of now and the liability more than as has been assessed by the Appellate Tribunal has already been deposited by respondent-Establishment with the EPF authority.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. In the present case, the EPF authorities while passing order under Section 7-A of the 1952 Act had assessed the amount to which respondent-Establishment is liable totalling to Rs.5,17,024/- including 12% interest, whereas, as per the liability assessed by the Appellate Tribunal, the said amount will come to Rs.2,32,133/-. The respondent-Establishment has already paid a sum of Rs.2,50,422/-. Further, the Tribunal has noticed that the default in payment attached to the respondent-Establishment was not

voluntary but forced keeping in view the labour unrest and lockout of respondent-Establishment and a categoric finding has been recorded by the Appellate Tribunal that there was no intention to avoid the liability by the respondent-Establishment under the 1952 Act.

7. The said contentions have not been rebutted by the learned counsel for the petitioner while filing present petition, Once, it is a conceded fact that the liability was not being avoided respondent-Establishment but the same could not be deposited due to labour unrest and lockout in the respondent-Establishment, no ground for interference by this Court in the impugned order passed is made out especially when, more amount than the one assessed by the Appellate Tribunal has already been deposited by the respondent-Establishment.

8. Keeping in view the above, present petition is dismissed.

9. Civil miscellaneous application pending if any is also disposed of.

February 19, 2025 **(HARSIMRAN SINGH SETHI)**
aarti **JUDGE**

Whether speaking/reasoned : *Yes*
Whether reportable : *No*