2025:PHHC:168583

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-3566-2011 (O&M)
Date of decision: 03.12.2025

M/s Jai Ambey Rice Trading Co. ....Petitioner

Versus

Union of India and another ....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Aman Bansal, Advocate,
for the petitioner.

Mr. Sanjay Tangri, Advocate,
for respondent No.2.

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KULDEEP TIWARI, J. (Oral)

1. Through the instant writ petition, as cast under Articles 226/227 of the Constitution of India, the petitioner seeks quashing of the order dated 04.06.2010 (Annexure P-14), passed by the Employees Provident Fund Appellate Tribunal, and also the order dated 23.05.1991 (Annexure P-4), passed by the Regional Provident Fund Commissioner-respondent No.2.

2. Learned counsel for the petitioner submits that though, in the coverage proforma (Annexure P-3), the date of establishment was depicted as 1984, but, concededly, the unit concerned started production on 25.10.1986. In this regard, he refers to an order dated 22.10.1991 (Annexure P-10), vide which, the respondents themselves clarified that the petitioner was entitled for infancy period of three years, w.e.f. 25.10.1986, when the rice mill came into production. He further submits that the authorities concerned had taken the average minimum wages as a

determining criterion to conclude that petitioner is at fault, but neither the dues, nor the actual number of employees were factored in, while drawing the impugned assessment order (Annexure P-4). Therefore, it is quite clear that the order, as referred to above, was passed on presumptions only, and without any basis. Likewise, the learned Appellate Authority failed to take into consideration the abovesaid factual aspect, which is germane to the matter.

3. This Court has heard the learned counsel for the parties, and perused the record.

4. Upon being pointedly asked, on what basis, the Assessing Authority assessed the amount of Rs.21,968.80/-, learned counsel for respondent No.2 fails to satisfy this Court, though he made all possible endeavours to justify the order (supra). Further, as demonstrated above, per the order dated 22.10.1991 (Annexure P-10), it is a conceded position that infancy period was granted w.e.f. 25.10.1986, and the relevant part thereof is extracted hereinbelow:-

> "*In this connection it is stated that your estt. was covered provisionally w.e.f. 18.1.89 on the basis of information given in coverage proforma. Later on the verification of your record by the PFI, it has been gathered that your rice mill came into production w.e.f 25.10.86. From this date you are entitled to infancy period of 3 years. Hence, you estt. is no rightly covered w.e.f. 25.10.89, as already intimated. The dispute regarding coverage stands resolved by shifting the date of coverage. You are now requested to report compliance.*"

5. Before proceeding further with the matter, it would be expedient to refer to the relevant part of the impugned assessment order, and the same reads below:-

> *"….In order to avoid further delay in the disposal of this case, Provident Fund dues for the period 11/89 to 12/90 may be assessed u/s 7-A of the Act 1952 on the basis of average minimum wages i.e. Rs.800-00/- per month per employee in r/o II employee because in this type of Industry i.e. Rice Shelling not more than half of the total No. of employees are often found eligible for P.F. membership. The salary/wages for one month comes out to be Rs.8800-00/- of P.F. due on this salary may be assessed as per detail given below:*
>
> *Dues for one month*

A/C	*I*	*Rs. 1260.00/-*	*Rs.1764.00*
A/C	*II*	*Rs.57.20/-*	*Rs.800.80*
A/C	*X*	*Rs.206.00/-*	*Rs.2884.00*
A/C	*21*	*Rs.44.00/-*	*Rs.616.00*
A/C	*22*	*Rs.2.00/-*	*Rs. 28.00*

> *Dues for 14 months i.e. 11/89 to 12/90"*

6. What can be gathered from the abovesaid findings of the Regional Provident Fund Commission, is that, though the assessment was undertaken for the period from November, 1989 to December, 1990, no pragmatic approach was adopted, while reaching at the figures referred to above. Suffice it to say, the order (supra), is founded merely on assumptions. Not only that, even learned counsel for respondent No.2 could not refer to any document to establish that the assessment order is predicated upon a rational or reasoned approach.

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7. In the wake of the above, the impugned orders are **set aside**. The matter is **remitted** to the Provident Fund Commissioner concerned to decide the same afresh, in accordance with law, after affording due opportunity of hearing to the petitioner through its authorized representative(s).

8. Further, as the petitioner is pursuing its cause diligently since 1991, the authorities concerned shall conclude the matter, at the earliest, but in any case, within a period of 08 weeks from the receipt of a certified copy of this order.

9. With the observations made above, the instant writ petition is **disposed of.**

(KULDEEP TIWARI)
JUDGE

03.12.2025
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No