
(2005) 02 DEL CK 0094

In the Delhi High Court

Case No : WP (C) 1997 of 2003 and CM 3329 of 2003

ACE Laboratories Ltd.

APPELLANT

Vs

Applt. Tribunal, Emp. Provident Fund and Others

RESPONDENT

Date of Decision : 16-02-2005

Acts Referred:

Citation : (2005) 02 DEL CK 0094

Hon'ble Judges : Mukul Mudgal, J

Bench : Single Bench

**Advocate : Chetan Sharma, S.S. Mishra and Pratap Sahani, for the Appellant;
R.C. Chawla, for the Respondent**

Judgement

Mukul Mudgal, J.—Rule. With the consent of the counsel for the parties, the writ petition is taken up today for final hearing.

2. This writ petition challenges the Order dated 13th February, 2003 passed by the Employees' Provident Funds Appellate Tribunal (in short the `Tribunal') under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (in short the `EPF Act').

The said order dismissed the appeal preferred by the petitioner for failure to deposit 75% amount determined by the Provident Fund Commissioner by his order dated 26th May, 2002. The order is challenged inter alia on the ground that the Tribunal failed to address the question as to the applicability of the proviso to Section 70 of the EPF Act which proviso permitting waiver of pre-deposit was fully attracted in the facts of the present case. Section 70 of the EPF Act reads as follows:-

""Deposit of amount due on filing appeal.____No appeal by the employer shall be entertained by a Tribunal unless he was deposited with it seventy-five per cent of the amount due from him as determined by an officer referred to in section 7A:

Provided that the Tribunal may, for reasons to be recorded in writing, waive or

reduce the amount to be deposited under this section.'"

3. After hearing the learned counsel for the parties and considering the facts of the case, the order impugned in this writ petition dated 13th February, 2003 is set aside and it is deemed appropriate to direct the hearing of the appeal, preferred by the petitioner before the Employees Provident Fund Appellate Tribunal(in short the `Tribunal') subject to the petitioner's depositing a sum of Rs.5 lacs as a precondition for hearing of its appeal.

3. Accordingly the petitioner shall deposit the said sum in the following manner:-

Amount (Rs.) Schedule of Payment 1. 2,00,000/- on or before 2nd March, 2005
2. 2,00,000/- on or before 17th March, 2005 3. 1,00,000/- on or before 4th April, 2005.

4. It is directed that the petitioner's appeal shall be heard only after the aforesaid deposit. Parties to appear before the Tribunal on 12th April, 2005. In case there is any default in any of the deposits stipulated above by this order the appeal preferred by the petitioner before the Tribunal shall not be heard and the order dated 13th February, 2003 passed by respondent No. 1 as well as the Order dated 26th May, 2002, passed by the respondent No. 2/RPFC shall revive. In case the aforesaid deposits are made within the stipulated time schedule as prescribed by this order, no coercive proceedings will be adopted against the petitioner until the hearing of the petitioner's appeal by the Tribunal.

4. The petitioner's senior counsel, Mr. Chetan Sharma undertakes that the petitioner will extend full cooperation for an expeditious disposal of the appeal before the Tribunal and not seek unnecessary adjournment.

5. The writ petition and all the pending applications accordingly stand disposed of.