

(2017) 01 MP CK 0004
In the Madhya Pradesh High Court
Case No : W.P. No. 19401 of 2016

Employees Provident Fund

APPELLANT

Vs

M/s. IBD Nalanda Infratructure

RESPONDENT

Date of Decision : 10-01-2017

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) LabLR 259

Hon'ble Judges : Mr. Rajendra Menon, ACJ. and Ms. Anjuli Palo, J.

Bench : Division Bench

Advocate : Shri J.K. Pillai, Advocate, for the Petitioner; Shri Uttam Maheshwari, Advocate, for the Respondent No. 1

Final Decision : Disposed Off

Judgement

Mr. Rajendra Menon, Actg. C.J. - The challenge in this writ petition under Article 227 of the Constitution of India is made to an interlocutory order (Annexure-P/3) dated 1.9.2016 passed by the Employees' Provident Funds Appellate Tribunal, New Delhi, in an Appeal pending before the Tribunal u/s 7-I of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Even though various grounds are raised in the writ petition, we are informed that the Hon'ble Supreme Court in the case of M/s. Arcot Textile Mills Ltd. v. The Regional Provident Fund Commissioner and others, (2013) 16 SCC 1 has laid down a principle that a consolidated appeal u/s 7-I will not be maintainable in case different orders are passed u/s 14B and 7Q separately by the competent Authority. A joint appeal would be maintainable only if the consolidated order is passed imposing damages u/s 14B and interest u/s 7Q. Shri Pillai, points out that in this case two different orders were passed; one u/s 14B imposing the damages and another u/s 7Q imposing interest and a consolidated appeal filed is not maintainable. Raising this objection based on the law laid down in the case of Arcot Textiles Mills (supra), Shri Pillai points out that an objection was raised on 31.10.2016 but the objection has not been decided, the appeal proceedings in

the appeal are continuing and even the stay order is not being modified. He submits that on the objection hearing has not taken place and now the Tribunal has posted the matter for hearing in the month of March. He makes a complaint that once the consolidated appeal was not maintainable the Tribunal should have passed appropriate orders on the objection raised by the petitioner on 31.10.2016.

2. Shri Uttam Maheshwari, learned counsel appearing for the respondent No.1 submits that as the Tribunal has only passed an interim stay order, at this stage indulgence by this Court in a proceeding under Article 227 of the Constitution of India is not called for and as the objection raised on 31.10.2016 is yet to be decided by the Tribunal, no further orders are necessary.

3. Having considered the submissions made we are of the considered view that in the light of the law laid down by Hon'ble the Supreme Court in the case of Arcot Textiles Mills (supra), the objection raised by the petitioner on 31.10.2016 warrants consideration and this having not been done, it is a fit case where the matter should be remanded back to the Tribunal for reconsideration of the objection filed on 31.10.2016 in the backdrop of the law laid down in the case of Arcot Textiles Mills (supra) .

4. Keeping in view of the aforesaid, we dispose of this writ petition with a direction to the petitioner to file that certified copy of this order along with copies of application filed on 31.10.2016 and a copy of the judgment in the case of Arcot Textiles Mills (supra) before the learned Tribunal and learned Tribunal is requested to consider the application dated 31.10.2016 and pass an appropriate order on the same after hearing all concerned in accordance with law preferably within a period of 30 days from the date of appearance of the petitioner before the Tribunal.

With the aforesaid the petition stands disposed of.