

(2013) 06 GUJ CK 0052
In the Gujarat High Court

Case No : Letters Patent Appeal No. 824 of 2006

Employees" Provident Funds Organisation	APPELLANT
Vs	
Sihor Mercantile Co-op. Bank Ltd.	RESPONDENT

Date of Decision : 13-06-2013

Acts Referred:

Citation : (2013) 139 FLR 161 : (2013) LLR 1273

Hon'ble Judges : Vijay Manohar Sahai, J;A.G. Uraizee, J

Bench : Division Bench

Advocate : M.S. Rao and Mrs. Vasavdatta Bhatt, for the Appellant; Manish R. Bhatt, for the Respondent

Judgement

Vijay Manohar Sahai, J.—We have heard Mrs. Vasavdatta Bhatt learned Counsel for the appellant and Mr. Manish Bhatt learned Counsel appearing for the respondent.

This Letters Patent Appeal under Clause 15 of the Letters Patent has been filed by the appellant challenging the judgment dated 14.12.2005 passed by learned Single Judge in Special Civil Application No. 15094 of 2005.

The briefs facts of the case as narrated in para 2 of the said order is as under:--

2. Provisions of Employees" Provident Funds & Misc. Provisions Act, 1952 are applicable to the respondent and when it came to the notice of the petitioner that the respondent is not complying with the provisions of the said Act, the petitioner allotted a Code Number to the respondent and advised the respondent to comply with the same. Thereupon the respondent remitted the payment of its dues which had fallen due between April 1995 and February 1999. Since there was a delay in payment the petitioner had issued show cause notice dated 20th June 2000 u/s 14-B of the said Act calling upon the respondent to show case as to why damages should not be imposed and recovered from it. Representative of the respondent appeared before the competent authority and submitted that the date of allotment of code number is the reason for the late remittance of the

provident fund dues. Ultimately the respondent authority passed order dated 6th September 2000 and determined the amount of "damage" leviable u/s 14-B of the said Act at Rs. 7,00,758. The respondent carried the matter in appeal before the Employees' Provident Fund Appellate Tribunal, New Delhi by way of filing Appeal No. ATA 518(5)/2000. The Tribunal, after hearing the parties, passed order dated 16th February 2005 whereby the Tribunal quashed and set aside the order dated 6th September 2000. It is against the said decision the present petition has been filed.

2. It is urged that the Provisions of Employees' Provident Fund & Miscellaneous Provisions Act, 1952 (for short "the Act") was made applicable to the respondent with effect from 1.4.1995 and it was the duty of the Bank to comply with the provisions of the Act. The case of the respondent is that only when the code number was allotted to the respondent on 23.3.1999 that the liability of the employer arises to deposit the provident fund amount. Therefore, the respondent-bank immediately paid the provident fund with effect from March 1995 onwards. The appellant is claiming employees provident fund amount along with interest from April, 1995 to April 1999. Therefore, the demand made by the appellant is wholly unjustified. The respondent could not deposit the amount as the code number was not allotted to it and since the code was allotted to it in the year 1999, it paid the amount of provident fund for the period from April, 1995 to February, 1999. Thus, it cannot be said that the respondent-bank has committed any default which warranted it to pay interest on delayed remittances.

3. We do not find any infirmity in the impugned order passed by learned Single Judge. Therefore, this appeal fails and the same is rejected. Rule is discharged. Learned Counsel for the respondent submitted that the respondent-bank paid the amount in excess and it may be refunded along with the interest. We are not inclined to grant any interest. The amount deposited by the respondent in excess with the appellant shall be refunded to it within a period of 3 months.