
(2021) 10 SHI CK 0077
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 457 Of 2021

?Kishori Lal Sharma & Sons	Vs	APPELLANT
Regional Provident Fund Commissioner And Others		RESPONDENT

Date of Decision : 27-10-2021

Acts Referred:

Employees' Provident Funds And Miscellaneous Provisions Act, 1952 — Section 7A, 7I, 7O, 8F

Citation : (2021) 10 SHI CK 0077

Hon'ble Judges : Mohammad Rafiq, CJ; Sabina, J

Bench : Division Bench

Advocate : Hemant Kumar Thakur, Binat Sharma, Navlesh Verma

Final Decision : Disposed Of

Judgement

Mohammad Rafiq, CJ

1. This writ petition has been filed by M/s Kishori Lal Sharma & Sons, a proprietor firm, against the order dated 16.03.2020 (Annexure P-3), passed by respondent No.1-Regional Provident Fund Commissioner, in exercise of powers conferred under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short, the Act), determining a sum of Rs.10,26,885/- for the period 03/2000 to 10/2015 as outstanding liability towards provident fund for the said period.

2. The contention of learned counsel for the petitioner is that the order has been passed without jurisdiction, inasmuch as the petitioner filed a review petition, which has wrongly been dismissed on the ground of delay. All the subsequent orders, that is, notice under Section 7-A, dated 22.06.2020 (Annexure P-4), show-cause notice dated 07.08.2020 (Annexure P-5), order under Section 8F, dated 07.08.2020 (Annexure P-6), another demand notice dated 25.08.2020 (Annexure P-7), having been passed pursuant to the main order dated 16.03.2020, are also illegal.

3. Mr. Nalvesh Verma, learned counsel for respondents No.1 to 3, opposed the writ petition, contending that the petitioner has efficacious alternative remedy of appeal under Section 7-I of the Act before the Tribunal as per Scheme of the enactment. The present writ petition may not, therefore, be maintainable before this Court. The petitioner has deliberately avoided filing of appeal only because, as per Section 7-O of the Act, it is required to make deposit of 75% of the amount due from it as per Section 7A of the Act.

4. We are of the considered view that when the legislative scheme of the Act has provided for inbuilt remedy of appeal against the order passed by the Regional Provident Fund Commissioner under Section 7A of the Act before the Tribunal under Section 7-I of the Act, the writ petition may not be entertained directly before this Court.

5. Consequently, the present writ petition is disposed of with a liberty to the petitioner to now file an appeal before the Tribunal with 15 days from today, after complying with the provisions of Section 7-O of the Act. If the appeal is filed within the said period, the same shall be decided by the Tribunal on merits, ignoring the delay in filing the appeal. Pending miscellaneous application(s), if any, shall also stand disposed of.

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