(2011) 03 DEL CK 0211

In the Delhi High Court

Case No : Writ Petition (C) No. 1602 of 2011

Mahavir Plantations Pvt. Ltd. APPELLANT

Vs

The Assistant Provident Fund Commissioner and Another RESPONDENT

Date of Decision : 11-03-2011

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 7A, 7Q

Citation : (2011) 03 DEL CK 0211

Hon'ble Judges : Rekha Sharma, J

Bench : Single Bench

Advocate : C.N. Sreekumar and S.S. Pandey, for the Appellant; R.C. Chawla and Ram Kamal, for the Respondent

Final Decision : Dismissed

Judgement

Rekha Sharma, J.—This writ-petition is directed against the order of the Employees'' Provident Fund Appellate Tribunal, dated September 13, 2010 dismissing an appeal filed before it against an order passed u/s 7Q of the Employees'' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter called the "Act") on the ground that an order passed under the said Section is not an appealable order.

2. It is not in dispute that an order u/s 7A of the Act determining the liability of the Petitioner was passed by the Assistant Provident Fund Commissioner on November 21, 2007 and in the same order, the Petitioner was held liable to pay simple interest @ 12% in terms of Section 7Q of the Act. It is also not in dispute that the Petitioner raised no challenge to the said order. As a matter of fact, the order dated November 21, 2007 came to be passed after the Petitioner inspite of opportunities given failed to appear before the Assistant Provident Fund Commissioner.

3. The Petitioner did pay the amount due from it as determined u/s 7A of the Act, but did not pay the interest levied u/s 7Q of the Act. Hence, a further order

dated June 03, 2010 was passed against it by the Assistant Provident Fund Commissioner, R.O. Coimbatore levying interest to the tune of Rs. 27,92,681.55P. It was against this order that the Petitioner had preferred an appeal before the Employees'' Provident Fund Appellate Tribunal.

4. It is provided in Section 7Q of the Act that, "the employer shall be liable to pay simple interest at the rate of twelve per cent per annum or at such higher rate as may be specified in the Scheme on any amount due from him under this Act from the date on which the amount has become so due till the date of its actual payment." An employer under this Section becomes liable to pay interest as a consequence of his failure to pay any amount due from him under the Act from the date it became due till its actual payment. Once the liability has been determined, the interest thereon has to follow. And this is what has been done in the present case. The Section leaves no scope for interference. The Tribunal is justified in holding that the order passed u/s 7Q of the Act is not an appealable order.

5. There is no merit in the writ-petition. The same is dismissed.