(1995) 12 P&H CK 0039

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 20 of 1981

Nav Bharat Industries APPELLANT

Vs

Regional Provident Fund Commissioner and Another RESPONDENT

Date of Decision : 05-12-1995

Acts Referred:
Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 14B

Citation : (1997) 3 LLJ 216 : (1996) 113 PLR 786

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

Advocate : S.C. Kapoor and Surinder Singh, for the Appellant; Ashok Aggarwal and Rajender Goel, for the Respondent

Final Decision : Dismissed

Judgement

T.H.B. Chalapathi, J.—The petitioner filed this writ petition for quashing the order passed by the 1st respondent.

2. The petitioner is a manufacturing firm. It employed several workers in its manufacturing unit. The petitioner-firm failed to deposit the provident fund dues of its employees for the period from March, 1975 to March, 1979. When a notice was given to the petitioner for taking action for non deposit of the provident fund dues by its employees, it was contended that due to labour trouble, go slow, tool down strike and lock-out, the provident fund dues were belatedly deposited and there was no intention on the part of the management to cause delay in the payment of said amount. On a consideration of the explanation offered by the management, the Regional Provident Fund Commissioner imposed a levy of damages of Rs. 21,375.25 paise on the petitioner for belated deposit of the provident fund dues for the period March, 1975 to March, 1979.

3. Challenging the said order, the petitioner filed the above writ petition.

4. Admittedly, there is delay in depositing the provident fund dues at belated stage. Section 14-B of the Employees'' Provident Funds and Misc. Provisions Act,

1952, gives the power to the Commissioner to recover damages from the employer who makes default in depositing the provident fund contributions of the employees. It is no doubt true that the damages referred to in Section 14-B are not by way of compensation but by way of penalty and it has been held in Avon Scale Company Vs. Regional Provident Fund Commissioner, that the damages assessed u/s 14-B of the Act have no co-relation with the loss suffered as a result of the delayed payment because damages levied and recovered u/s 14-B of the Act go to the general account of the fund and not into the employees'' account. It is further held in the said decision that it is not conceivable that an employer who can afford to pay wages of the employees, could not afford to deposit 8 per cent of the employer''s provident fund contribution particularly when inspite of these difficulties the establishment could manage to keep running and meet other financial obligations. As observed in the said judgment, timely deposit of provident fund is a statutory obligation which cannot be allowed to be diluted by such extraneous factors. The respondent has taken into account the delay in payment of the amounts and the amounts involved. A close reading of the impugned order of the Regional Provident Fund Commissioner clearly shows that there is no infirmity in the order of the 1st respondent. I do not find any grounds warranting interference with the same.

5. The writ petition therefore, fails and is accordingly dismissed.