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(2015) 07 P&H CK 0089

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 6205/2013 (O&M)

The Asstt. Provident Fund Commissioner — APPELLANT

Vs

SPL Industries Ltd. and Others — RESPONDENT

Date of Decision : 08-07-2015

Acts Referred:

Employees Provident Funds Family Pension Fund and Deposit-linked Insurance Fund Act, 1952 — Section 14B, 14-B, 7A, 7Q, 7-Q

Citation : (2015) 147 FLR 329 : (2015) 4 LLN 799 : (2015) LLR 955

Hon'ble Judges : Amit Rawal, J

Bench : Single Bench

Advocate : Sanjay Goyal, for the Appellant

Final Decision : Disposed off

Judgement

Amit Rawal, J—The challenge in the present writ petition is to the order dated 21.98.2011 (annexure P-5) passed by the Employees Provident Fund, Appellate Tribunal, New Delhi vide which the impugned appeal filed by the respondents against the order dated 4.5.2010 whereby the interest and damages under Section 7Q and 14B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter called as ''the Act'') had been imposed is allowed. Mr. Sandeep Goyal, learned counsel appearing on behalf of the petitioner submits that the appellate authority accepted the appeal of the respondents in a most mechanical and sketchy manner, inasmuch as it has not taken into consideration the provisions of Section 7Q and 14B and decided the appeal only on the premise that the respondent had deposited the amount raised in view of the direction while passing order under Section 7A within 15 days. In essence, the order under Section 7A was passed on 30.11.2005 and the payment of Rs. 6,65,013 was made on 12.12.2005, therefore, it would not prevent the respondents from making payment of interest and damages.

2. Mr. Chandok submits that though a detail representation was submitted before the Assessing Officer in response to the notice received under Section 7-Q and

14-B but same was also not considered and in this regard a specific ground was also taken in the grounds of appeal.

3. Be that as it may, the appellate authority disposed of the appeal only on the premise that the respondent has deposited the amount within 15 days from the date of passing of the order. This does not met with the requirement of law i.e. mandate of Section 7-Q and 14-B, therefore, the appellate authority ought to have examined the aforementioned sections and considered the submission and rival submissions of the parties while imposition of penalty, damages/interest.

4. Accordingly the order dated 21.9.2011 is set aside. The matter is remitted back to the appellate authority to decide the appeal afresh. In essence, appeal bearing No. 334/16/2010 titled as M/s. SPL Industries Ltd. is restored back to its original number.

5. The appellate authority is directed to decide the appeal afresh after hearing the parties and consider the same in accordance with law preferably within a period of four months from the date of receipt of certified copy of the order. With the aforementioned observations the writ petition stands disposed of.

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