



IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (L) No. 2165 of 2011

The Regional Provident Fund Commissioner, Employees Provident Fund Organization, Ministry of Labour, Government of India, Regional Office at Bhagirathi Complex near Circuit House, P.O. & P.S. Karamtoli, Ranchi (Jharkhand) through Shri T.K. Mukherjee, Son of Sri S.R. Mukherjee, Regional Provident Fund Commissioner, Jharkhand, PO & PS-Lalpur, District-Ranchi (Jharkhand).

.....(Respondent)/Petitioner

Versus

M/s I.A.G. Company Ltd., PO & PS-Bhadani Nagar, District-Ramgarh (Jharkhand).

.....(Appellant)/Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner : Mr. Kislaya Prasad, Advocate

For the Respondent :

19/Dated:-17.09.2025

1. Heard learned counsel for the parties.
2. The instant writ application has been preferred by the petitioner praying therein for the following relief:

For issuance of an appropriate Writ or a writ in the nature of certiorari or any other appropriate writ/order/direction, quashing the final order dated 22nd October, 2010 passed by Shri Srikanth Nayak, Presiding Officer, Employees provident Fund Appellate Tribunal, New Delhi (EPFAT) in A.T.A. No.468(3)/2008, whereby and whereunder he has remanded back the matter to the EPF authority with a direction to assess the liability at 22% inclusive of interest with a further direction to the appellant-respondent to appear before the petitioner-authority and place its case within one month of the said order, failing which the petitioner may decide the matter as per law, in an entirely perverse manner by misconstruing the settled principles of law and miscomprehending the several decisions of the Hon'ble Supreme Court in this regard referred to him while passing the final order dated 22.10.2010 and thereby restricted the damages inclusive of interest thereon to mere 22%.

3. From record it appears that notices were issued to the sole respondent, but they never appeared and forced with this situation paper publication was also directed to be made and the same was duly published which has been filed through an



affidavit.

4. From record, it appears that the respondent-Company had filed an appeal before the Employees Provident Fund Appellate Tribunal, New Delhi which was registered as A.T.A. No. 468(3)/2008. The case of the respondent-company before the appellate tribunal was that there was delay in depositing EPF contribution and therefore, the penalty and interest were imposed; but since it was not intentional but only due to financial problem, the EPF contribution could not be submitted in time.

5. The appellate Court has remitted the matter before the original jurisdiction with a direction to assess the liability of 22% inclusive of interest. However, from bare perusal of Paragraph 6 of the appellate order, it appears that the learned Appellate Court after giving reference of two judgments; one of them was of the Hon'ble Apex Court that power cut, financial problem relating to other indebtedness or delay in realization of amount paid by cheque or draft are not relevant explanation to avoid the liability for payment of dues.

However, in spite of referring the aforesaid judgment, the appellate authority finally remitted the case with a direction to take only 22%; which is admittedly perverse in nature. For brevity, para-6, 7 and 8 of the appellate order is extracted hereinbelow:

"6. The applicability of the EPF Act to the appellant establishment is not disputed. Also, the default is not disputed. Financial problem is a very common problem in all the industrial establishments and so the same is not a justifiable ground for default in payment of the EPF dues. In the case of M/s Sky Machinery Ltd. Vs. RPFC reported in 1998 LLR page 925 the Hon'ble High Court of Orissa held that, "financial crunch will not be sufficient for waiving penal damages for delay in depositing the PF contribution." Also, in the case of Hindustan Times Ltd. Vs. Union of India



reported in 1998 Vol 2 SCC page 242 the lordship held that. "power cut, financial problem relating to other indebttness or delay in realization of amount paid by cheque or draft are not relevant explanation to avoid the liability for payment of dues."

7. *The documents filed show that due to financial problem the payment could not be made. But prior to that the payment was being made regularly. In the case of M/s Shanti Garments Vs. Regional PF Commissioner reported in 2003 Vol. 1 CLR page 228 the Hon'ble High Court of Madras held that, "where default is found but no apparent fault the quantum of damage should be compensatory rather than penal in nature."*

8. *Thus, in view of the discussion held above, imposition of penalty and interest on a higher side is not justified. Hence ordered, the appeal is remanded back to the EPF Authority with direction to assess the liability 22% inclusive of interest. The appellant is directed to appear before the Authority within one month of this order to place his case, failing which, the respondent may decide the matter as per law. Copy of order be sent to the parties and the file be consigned to record room."*

6. Having regard to the aforesaid discussion, the instant writ application stands allowed. The order dated 22nd October, 2010 passed by the Presiding Officer, Employees provident Fund Appellate Tribunal, New Delhi (EPFAT) in A.T.A. No.468(3)/2008; whereby and whereunder he has remanded the matter to the EPF authority with a direction to assess the liability at 22% inclusive of interest is quashed and set-aside.

7. As a result, the instant application stands disposed of. Pending I.A., if any, also stands closed.

(Deepak Roshan, J.)

SEPTEMBER 17, 2025
vikas/-