

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,
ASANSOL**

PRESENT: Justice Ananda Kumar Mukherjee (Retd.),
Presiding Officer,
C.G.I.T-cum-L.C., Asansol

EPFA No. 01 of 2014 [ATA No. 153(15) of 2014]

M/s. Kamakhya Rice Mills.

..... Appellant

Vs.

Regional Provident Fund Commissioner, Durgapur

..... Respondent

O R D E R

Dated: 13th April, 2023

Representatives:

For the Appellant :

Mr. S. K. Khanna, learned advocate and
Mr. Bibhas Banerjee, learned advocate.

For the Respondent :

Mrs. Mousumi Ganguli, learned advocate.

1. The appellant has preferred this appeal under Section 7-I of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as EPF Act), being aggrieved and dissatisfied with the impugned order dated 15.09.2006 passed by the Assistant Provident Fund Commissioner, Sub-Regional Office, Durgapur in a proceeding under Section 7-A of the EPF Act for the default in contributing the Provident Fund dues by the appellant from October, 1997 to August, 2004 in the first phase amounting to Rs. 2,57,444/- (Rupees two lakh fifty-seven thousand four hundred and forty-four only) and for payment of interest under Section 7-Q of the EPF Act amounting to Rs. 1,59,409/- (Rupees one lakh fifty-nine thousand four hundred and nine only) and against impugned order dated 03.12.2013 passed by the Regional Provident

Fund Commissioner, Durgapur in a review proceeding under Section 7-B of the EPF Act.

2. In brief, the facts of the case leading to this appeal is that the appellant establishment has been illegally covered under the purview of the EPF Act and the schemes framed thereunder. Although the number of employees working in the establishment of the appellant was below twenty it was illegally covered under the EPF Act w.e.f. 01.10.1997 by preponing the coverage and the appellant was made liable for non-payment of Provident Fund contribution under Section 7-A for the period October, 1997 to August, 2004 and the same was reaffirmed in the review proceeding under section 7-B of the EPF Act.

3. On 21.03.2023 the appellant was allotted a Provident Fund code for its establishment bearing no. WB/41682 but subsequently the Provident Fund Authority preponed the date of coverage w.e.f. 01.10.1997 on the pretext that the establishment met with expenditure of Rs. 6,000/- (Rupees six thousand only) for payment to the Chartered Accountant during the year 1997-1998 and it had incurred an expenditure of Rs. 15,256/- (Rupees Fifteen thousand two hundred and fifty-six only) for the purpose of repairing “Toka”, which is cover made from bamboo for protecting the paddy from rain. It is the contention of the appellant that the Chartered Accountant firm which rendered periodical service on contract basis, could not have been treated as employees of the establishment as defined under Section 2(f) of the EPF Act. It is urged that for the purpose of bringing an establishment under the purview of EPF Act the strength of the employees working for wages must not be less than twenty on a particular date. Therefore, excluding the Chartered Accountant and the contractor dealing with repair of Toka, the strength of employees would be eighteen. Therefore, it was illegal on the part of the Provident Fund Authority to extend the coverage of appellant establishment under The EPF Act w.e.f. 01.10.1997. the appellant establishment contended that it did not get any opportunity to peruse the order

of the Enforcement Officer regarding identification of the twenty workmen as employees of the establishment. Thereafter the Respondent Authority has passed the impugned order determining the Provident Fund dues against the appellant without giving it an opportunity to submit its reply. According to the appellant the impugned order assessing the dues under Section 7-A and interest under Section 7-Q of EPF Act is bad in law and the same are liable to be set aside.

4. The Assistant Provident Fund Commissioner, Durgapur filed a reply against the Memorandum of Appeal contending that the object of the EPF Act is to provide social security to employees working in any establishment where more than twenty persons are employed on any day. It provides for compulsory deductions of Provident Fund from employees and a contribution from the Employer which is deposited in the workers account in the office of Employees' Provident Fund Organization.

5. According to the Respondent the appellant establishment was rightly covered under the EPF Act as its employment strength exceeded nineteen at the time of coverage. It has been asserted that the establishment was covered w.e.f. 21.03.2003 based upon available records but upon subsequent verification of the records it was revealed that the establishment was coverable w.e.f. 01.10.1997 as the employment strength of the establishment was twenty, taking into account the Accountant and Toka repairer. The contention of the Respondent is that in a Rice Mill establishment accounts work is simple and it relates to financial transaction of business. To protect paddy in a Rice Mill the function of Toka weaver is necessary, who repair Toka with bamboo to protect paddy. It is urged that the appeal is not tenable as the labourers employed by the contractors are the employees of establishment as contemplated under Section 2(f) of the EPF Act. The Respondent urged that as per the provisions under Section 2(f) and 2(e) the term employee and employer have been defined

under the EPF Act and the strength in the year 1997 was twenty, as such the EPF Act is applicable to the establishment w.e.f. 01.10.1997.

6. Learned advocate in support of the respondent's case placed reliance upon the Authorities in (i) **RPFC vs Shibu Metal Workers (1964-65 (27) FJR 491)** , (ii) **State vs Giridharilal Bajaj (1962 II LLJ 46 (Bom.DB))** , (iii) **RPFC vs Hooghly Mills Company Limited and Others (2012 (2) SCC 489)** , (iv) **State of W.B. vs Union of India (AIR 1963 SC 1241)** and argued that there is no illegality or irregularity in the impugned orders, calling for any interference by this Tribunal and that the appeal is liable to be dismissed on its merit.

7. In the decisions relied upon the learned advocate for the respondent emphasis has been laid on the settled principles of law having a general application in interpretation.

In the case of **RPFC vs Shibu Metal Workers** it was held that if two view are reasonably possible, the court should prefer the view which helps the achievement and furtherance of the object.

In the case of **State vs Giridharilal Bajaj** the Hon'ble High Court held that when there is doubt about their meaning, it is to be understood in the sense in which the best harmonize with the subject of the enactment and the object of the legislature.

In the case of **RPFC vs Hooghly Mills Company Limited and Others** the Hon'ble Supreme Court held that Employees' Provident Funds and Miscellaneous Provisions Act, 1952 is a social welfare legislation, as such in case of doubt, statute should be read as a whole considering its design, purpose and remedy which it seeks to achieve and same should be resolved in favour of the class of persons for whose benefit statute is enacted.

These salubrious principles have been taken into consideration for the purpose of adjudicating the case in hand. However, the facts and circumstances of each

case is different in nature and the object of the legislature has to be applied on the basis of unique features of the case.

8. I have considered the submission made on behalf of the parties and have traversed the contents of the impugned orders. This appeal has been preferred against two orders passed by the Provident Fund Authority bearing no. SRO/DGP/ENF/WB/41682/7A/5057/18051 dated 15.09.2006 under Section 7-A of the EPF Act and the subsequent order bearing no. SRO/DGP/ENF/WB/41682/7-B Order/897 dated 03.12.2013 passed under Section 7-B of the EPF Act on review of the earlier order. Copies of the impugned orders have been placed in the Memorandum of Appeal as Annexure-2 and Annexure-1 respectively. Order dated 15.09.2006 passed under Section 7-A demonstrates that the appellant was allotted with Provident Fund code bearing no. WB/41682 and it was covered under the EPF Act. Summon dated 04.10.2004 was issued to the appellant establishment that it had failed to remit the due for the period from its Setup to August, 2004 and a proceeding was started under Section 7-A of the EPF Act was fixing 27.10.2004 for appearance. The case was thereafter posted on 28.12.2004. Mr. Mata Prasad Chatterjee, advocate appeared for the establishment but he failed to produce the summoned records. On subsequent dates Mr. Uttam Ghosh, representative of the Employer appeared and prayed for one month's time for producing the summoned records. On 02.03.2005 representative of the Employer submitted several documents but failed to produce records for the period from April, 2004 to August, 2004. On 21.06.2005 Mr. Kalikinare Roy, representative of the Employer appeared and produced Attendance Register and Wage Register for the period from April, 2004 to March, 2005. After few more adjournments the case was fixed on 01.06.2006 where Mr. Kalikinare Roy appeared for the establishment and Mr. Aloke Aich, Enforcement Officer appeared on behalf of the Provident Fund Authority. In course of proceeding Mr. Aloke Aich, the Enforcement Officer as per direction of

the Enquiry Officer submitted a report dated 08.06.2006 wherein he mentioned that the establishment spent Rs. 6000/- under the Account Head as "Accounting Charge" for the year 1997-98 and spent Rs. 15,256/- under Account Head "Toka Repairing" and both the expenditure were considered in connections with the business and accordingly the strength of employees was computed as twenty instead of eighteen as in October, 1997. In the order under Section 7-A the report of Aloke Aich, the Enforcement Officer was taken on record and the establishment was directed to submit a statement regarding payment of dues from October, 1997 to August, 2004. On 25.07.2006 treating the strength of employees of the establishment as twenty, the Assistant Provident Fund Commissioner, Durgapur in his impugned report found that the total dues calculated in the first phase as per monthly dues available from October, 1997 to August, 2004 and second phase including accounting charges and repairing charge was Rs. 2,57,444/- as dues from the time it was setup to August, 2005 and the interest under Section 7-Q of the EPF Act was calculated as Rs.1,59,409/-.

9. Being aggrieved the present appellant filed an application for review under Section 7-B (1) of Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Accordingly, a proceeding was initiated under Section 7-B against order under Section 7-A dated 15.09.2006 in respect of 7-B proceeding. The Employer establishment filed Writ Petition No. 6486 (W) of 2008 which was disposed by the Hon'ble Calcutta High Court on 10.09.2008 with a direction to review the case under sub-section (1) of Section 7-B of the EPF Act. The impugned order dated 03.12.2013 reveals that Mr. Samit Das, representative of establishment appeared for hearing and Mr. Ratan Bhattacharya, the Enforcement Officer appeared on behalf of the department. It is observed in the impugned order that enough opportunity was provided to the appellant to furnish any new or important document / record or evidence which were not in their knowledge after

exercise of due diligence at the time of making assessment under Section 7-A. It is further observed that Mr. Samit Das, authorized representative was quite convinced that all the evidences have already been taken up during the 7-A proceeding and he was not in a position to submit any fresh or new evidence. I find from the impugned order of the Regional Provident Fund Commissioner that at the time of review of the order the Employer establishment was saddled with the responsibility to produce new evidence and fresh material which were not available at the time of proceeding under Section 7-A of the EPF Act. It transpires that the total dues of the establishment has been calculated in two phases, in the first phase the monthly dues from October, 1997 to August, 2004 and in the second phase accounting charge and repairing charge taken from the Enforcement Officer's report dated 17.10.2005 stood at Rs. 2,57,444/- towards Provident Fund, Pension Fund and Insurance Fund contribution and Administrative charges on Provident Fund and Insurance Fund for the period from setup to August, 2005. In addition to such dues computed by the Provident Fund Authority the establishment was found liable to pay interest under Section 7-Q from due date to 31.07.2006 in first phase as per order under Section 7-A dated 15.09.2006 and in the second phase interest under Section 7-Q payable from 01.08.2006 till the date of remittance is amounting to Rs. 1,59,409/-.

10. Learned advocate for the appellant strongly contended that the Employer establishment was covered w.e.f. 21.03.2003 with forty employees which is stated in the first paragraph of the impugned order dated 03.12.2013. However, in the order under Section 7-A there is no whisper regarding computation of number of employees as forty on 21.03.2003. The establishment was not covered under the Employees' Provident Fund Scheme in the year 1997 but on the basis of a report submitted by Mr. Alope Aich, the Enforcement Officer on 08.06.2006 the Provident Fund Authority on considering the amounts spent under the account head "accounting charge" and "Toka repairing" in the year 1997-98

determined the strength of employees as twenty and more in the month of October, 1997. On the basis of the report submitted by the Enforcement Officer, which was taken on record on 25.07.2006 the Provident Fund Authority came to a wrong finding about the number of employees working in the establishment. It is argued that a copy of the report was not supplied to the representative of the Employer establishment as such opportunity of being heard on such points were denied. Learned advocate in support of his contention placed reliance upon the decisions in the case of

- [i] Alphonsa English School, Pandharpur vs Assistant Provident Fund Commissioner and Others (W.P. Nos. 11228 of 2010 and 11232 of 2010) in the Hon'ble High Court of Bombay.**
- [ii] Nathan Industries vs Assistant Provident Fund Commissioner and Others (W.P. No. 19243 of 2013 and M.P. No. 01 of 2013) in the Hon'ble High Court of Madras.**
- [iii] West Bengal Power Development Corporation Limited vs Union of India and Others (C.W.P. No. 3032(W)/2008) in the Hon'ble High Court of Calcutta.**
- [iv] Jharkhand State Housing Board vs Employees' Provident Fund Organization, Ministry of Labour and Others (W.P. (C) No. 4246 of 2012) in the Hon'ble High Court of Jharkhand at Ranchi.**

and argued that when the Enforcement Officer submitted his report in course of a proceeding under Section 7-A of the EPF Act and an order was made for payment of Provident Fund dues, it was necessary to supply a copy of the Enforcement Officer's report to the petitioner so that sufficient opportunity was afforded to make his representation. Learned advocate further submitted that no evidence has been adduced by the Enforcement Officer in this proceeding to prove his case and as a result the Enforcement Officer could not be cross-examine.

11. I have considered the arguments advanced in the light of findings of the Provident Fund Authority. Undisputedly copy of the report submitted by the Enforcement Officer, Mr. Alope Aich was not supplied to the representative of the Employer establishment. Therefore, impugned order passed by the Provident Fund Authority under Section 7-A as well as under Section 7-B without affording any opportunity are in violation of Principles of Natural Justice.

12. The report submitted by Mr. Alope Aich was relied upon by the Provident Fund Authority without recourse to the process under Section 7-A (2) of the EPF Act. Though the Authority is vested with the powers of a Court under Civil Procedure code in dealing with proceeding under Section 7-A of the EPF Act, I find that the Authority has not followed the procedure for adjudicating the question raised. I therefore, find that the Provident Fund Authority arbitrarily saddled the appellant establishment with the liability of payment of dues even preponing the date of application of the Act to the establishment.

13. In the case of **Alphonsa English School, Pandharpur vs Assistant Provident Fund Commissioner and Others (W.P. Nos. 11228 of 2010 and 11232 of 2010)** where a copy of the report of the Enforcement Officer which was submitted to the Respondent No. 1 was not supplied to the petitioner / school, it was held by the Hon'ble High Court of Bombay, Aurangabad Bench, that the Respondent No. 1 has not followed the mandate and procedure as prescribed under section 7-A of the said Act. The petitioner had no opportunity to reply to said report, since the day on which such report was submitted with the Respondent No. 1 by the enforcement officer, the Respondent No. 1 closed the enquiry for orders. That itself indicates that no opportunity was given to the petitioner to put forth its case in reply to the report by the enforcement officer. The Hon'ble court further held that : It will be open for the respondent No. 1 to continue the enquiry from the stage of filing the report by the enforcement officer. Accordingly, the Writ Petition was allowed.

14. In the case of **West Bengal Power Development Corporation Limited vs Union of India and Others (C.W.P. No. 3032(W)/2008)** a Writ Petition under Article 226 was filed challenging two orders of the Assistant Provident Fund Commissioner, Durgapur passed under Section 7-A of the EPF Act and order passed under Section 7-B of the EPF Act. One M/s. Development Building Construction, an establishment to which the provisions of the Act and the schemes framed thereunder were applicable, was engaged by the petitioner as contractor while executing its project. A proceeding under Section 7-A was initiated against M/s. Development Building Construction for not paying contributions of some of the employees. On the basis of information that the employees were engaged for execution of the petitioner's project, the Assistant Provident Fund Commissioner issued summons against the petitioner and the petitioner participated in the proceeding under Section 7-A. Giving opportunity of hearing to the petitioner the Assistant Provident Fund Commissioner passed an order under Section 7-A on the basis of report of the Enforcement Officer. After receiving copy of the order under Section 7-A of the Act the petitioner submitted an application for review of the order under Section 7-B of the EPF Act. The Enforcement Officer submitted his report on 16.12.2005 calculating the liability of M/s. Development Building Construction under the Act and the schemes framed thereunder for the employees whose particulars were presumably, mentioned in the report. The Assistant Provident Fund Commissioner accepted the report without disclosing any reason or supplying copy of the same to the petitioner. The Hon'ble High Court of Calcutta in that case observed that in the proceeding under Section 7-B of the Act the Assistant Provident Fund Commissioner was required to examine whether any ground taken by the petitioner could be a warrant for reviewing the order under Section 7-A and the copy of the report of the Enforcement Officer had not been supplied to the petitioner. The Hon'ble High Court accordingly held that the Assistant Provident Fund Commissioner denied the petitioner reasonable opportunity to

defend itself and the two orders were set aside with a direction that 7-A proceeding shall be decided afresh giving all concerned reasonable opportunity of presenting their respective cases and defending themselves.

15. In the two other cited decisions in the case of (i) **Nathan Industries vs Assistant Provident Fund Commissioner and Others** and (ii) **Jharkhand State Housing Board vs Employees' Provident Fund Organization, Ministry of Labour and Others** an identical question has been decided that without furnishing reports of the Enforcement Officer to the aggrieved person, reliance should not be placed on the materials in the report as it would be violative of Natural Justice.

16. In my considered view the same principle would apply to the present case where the Assistant Provident Fund Commissioner, Durgapur proceeded to rely upon the Enforcement Officer's report on an assumption that it was within the notice of the representative of the establishment.

17. In the impugned order dated 15.09.2006 the Assistant Provident Fund Commissioner, Durgapur had initiated proceeding against the appellant on an allegation of failure to remit its Provident Fund dues from the period of its setup till August, 2004. There is no mention in the four corners of the impugned order as to when the appellant establishment was setup therefore reference to such a period appears to be vague and indefinite. In the impugned order dated 03.12.2013 under Section 7-B of the EPF Act, for the first time it is laid down that the establishment was covered from 21.03.2003 with forty employees. Therefore, it is clear that the Regional Provident Fund Commissioner before whom the review proceeding was held gave new reason to fortify the order under Section 7-A of the EPF Act. A pertinent question which has arisen at this stage is whether the "accounting charge" showing an expenditure of Rs. 6,000/- and

“Toka repairing” shows expenditure of Rs. 15,256/- had necessitated employment of additional employees during the year 1997-98, raising the strength of employees to twenty or more.

18. Mr. S. K. Khanna, learned advocate for the appellant vehemently argued that a firm of Chartered Accountants, which is a professional group of people in a firm cannot be considered to be employees of the establishment. Similarly, persons employed for the periodical Toka repairing cannot increase the number of employees of the establishment as contemplated under section 2(f) of the EPF Act. In support of his argument learned advocate relied upon a decision in the case of **Pee Aar Electrodes vs the Regional Provident Fund Commissioner and Another (WP(C) 823/1995)**, wherein the Hon’ble High Court of Delhi while considering the question as to whether a chartered accountant firm rendering professional service to the petitioner can be held to be an employee of the petitioner. In that case the Writ Petition had filed a photocopy of M/s Jindal Singla & Associates (Chartered Accountant) to the effect that they are looking after accounting including auditing and taxation matters of the petitioner on a professional fee of Rs.400/- per month; that to meet out the professional obligations they either call the representatives of the petitioner to their office with the records and sometimes send a person from their side to the establishment of the petitioner; that such person sent by them to the establishment of the petitioner works under the instructions of the chartered accountant firm and reports to them and the petitioner has nothing to do with any such person sent by them as regards the work to be done by such person on behalf of the chartered accountant firm. They have also stated that their employee draws salary from them and does not work as a part time accountant with the petitioner. In the said case the Hon’ble High Court held that:

“It cannot be said that any particular person is the 20th employee of the petitioner to make the provisions of the Act applicable to the petitioner. No relationship of

employer, employee between the petitioner and any such person can in the circumstances be said to exist. Such an arrangement would constitute hiring by the petitioner of the services of the chartered accountant firm and would not constitute a contract for employment.”

19. In the present case no evidence has been adduced if any chartered accountant firm was engaged by the Employer establishment or if such person who performed accounting work had any relationship of employee with the Employer establishment. Be that as it may, it appears to me that the Provident Fund Authority in order to give coverage to the establishment under the EPF Act from 01.10.1997 has based the order on surmise and speculation that the expenditure shown under the “accounting charge” and “Toka repairing” charge had essentially resulted in employing more employees for the establishment. Being forfeited by the decision of the Hon’ble Delhi High Court in the case of Pee Aar Electrodes vs the Regional Provident Fund Commissioner and Another I hold that no reasoned decision has been passed to show that there was any Employer-employee relationship between the Employer establishment and the persons for whom such expense for “accounting charge” and “Toka repairing” was incurred by the appellant.

20. On conspectus of the fact and circumstances of this case and the mandate of the law it is found that the Provident Fund Authority in both the impugned orders have miserably failed to identify the workers employed by the Employer establishment.

21. Appellant placed reliance on the case of **Builders Association of India vs Union of India and Others (CC No. 8035/2016)** where the Hon’ble Supreme Court dismiss the leave petition of the petitioner and observed that :

“ Without identification, the petitioner will not be liable to make the contribution. The process of identification will arise only at the stage of enquiry that is to be conducted by the respondent-organization, the steps will also be taken to identify

the workmen either of the petitioner or engaged through contractors. ”

22. In the case of **Kaushik K. Chatterjee vs Assistant Provident Fund Commissioner, Employees' Provident Fund Organization (W.P. No. 1674 of 2016)** relied on behalf of the appellant the Hon'ble High Court of Bombay (Nagpur Bench) held that :

“Prima facie, this Court is of the view that there cannot be determination of liability of the provident fund dues under Section 7-A of the said Act without actually identifying the employees along with their verifiable addresses. It is not open for the respondent Assistant Provident Fund Commissioner to proceed to determine the liability of the employer under Section 7-A of the said Act by holding that the employer has failed to produce the evidence and therefore, the employees remain unidentified. This aspect is dealt with by the Apex Court in paragraph Nos. 7, 8 and 9 of the decision in the case of Food Corporation of India vrs. The Provident Fund Commissioner and others reported in 1990 I CLR 20, which are reproduced below.

"7. The question, in our opinion, is not whether one has failed to produce evidence. The question is whether the Commissioner who is the statutory authority has exercised powers vested in him to collect the relevant evidence before determining the amount payable under the said Act.

8. It is of importance to remember that the Commissioner while conducting an inquiry under section 7A has the same powers as are vested in a Court under the Code of Civil Procedure for trying a suit. The section reads as follows:

"S. 7(A) Determination of Moneys due from Employer-- (1) The Central Provident Fund Commissioner, any Deputy Provident Commissioner or any Regional Provident Fund Commissioner may, by order determine the amount due from any employer under any provision of this Act (the scheme

or the Family Pension Scheme or the Insurance Scheme as the case may be) and for this purpose may conduct such inquiry as he may deem necessary.

(2) The Officer conducting the inquiry under 9 wp1674.16.odt sub-section (1) shall, for the purposes of such inquiry, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, for trying a suit in respect of the following matters, namely:

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses.

and any such inquiry shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228, and for the purpose of Section 196 of the Indian Penal Code."

9. It will be seen from the above provisions that the Commissioner is authorized to enforce attendance in person and also to examine any person on oath. He has the power requiring the discovery and production of documents. This power was given to the Commissioner to decide not abstract questions of law, but only to determine actual concrete differences in payment of contribution and other dues by identifying the workmen. The Commissioner should exercise all his powers to collect all evidence and collate all material before coming to proper conclusion. That is the legal duty of the Commissioner. It would be failure to exercise the jurisdiction particularly when a party to the proceedings requests for summoning evidence from a particular person." "

23. The law laid down by the Hon'ble Apex Court is clear in respect of this i.e. (1) that the Provident Fund Commissioner cannot saddle the liability upon the employer for the reason that the employer has failed to produce evidence, (2) the liability can be fixed only upon identifying the workmen or employees and (3) it

is the duty of the Provident Fund Commissioner to collect evidence and collate all material before coming to proper conclusion.

24. In view of my above discussion and the impropriety and illegality in the impugned orders I hold that the impugned order dated 15.09.2006, passed by the Assistant Provident Fund Commissioner under Section 7-A of the EPF Act and the order dated 03.12.2013, passed by the Regional Provident Fund Commissioner in a review petition under Section 7-B of the EPF Act are not sustainable under the extant law and are set aside. The Respondent Provident Fund Authority, Durgapur is directed to decide the matter relating to such default afresh under Section 7-A of the EPF Act after giving opportunity to the respective parties to defend their case and on the basis of evidence adduced pass a fresh order under Section 7-A of the EPF Act preferably within two months from the date of communication.

25. Let copy of the judgment be communicated to the parties under Rule 20 of the Tribunal (Procedure) Rules, 1997.

Sd/-

(ANANDA KUMAR MUKHERJEE)

Presiding Officer,
C.G.I.T.-cum-L.C., Asansol.