BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208 ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.

APPEAL NO. D-2/23/2022

M/s. Polyplastic Automotive India Pvt. Ltd. Appellant
Through Sh. S.K Gupta Ld. Counsel for the Appellant.

Vs.

RPFC/APFC Gurgugram West Respondent
Through Sh. B.B Pradhan Ld. Counsel for the Respondent

ORDER DATED :- 28.07.2022

Arguments on the admission as well as prayer for granting stay on operation of the impugned order heard and concluded. List the matter on 21.09.2022 for pronouncement of order on the same. Meanwhile, the Respondent authority is directed not to take any coercive measure for recovery of the amount as mentioned in the impugned order till next date of hearing.

Presiding Officer

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208 ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.

Appeal No. D-2/31/2021

M/s. A2Z Infra Services Ltd. Appellant
Through Sh.J.R Sharm & Sh. Bhuspesh Sharma, Ld. Counsels for the Appellant

Vs.

RPFC-I, Gurugram (E) Respondent
Through Sh. S.N Mahanta, Counsel for the Respondent

ORDER DATED :- 28.07.2022

The Ld. Counsel for the Respondent prayed for some more time to file the reply. Granted as last chance. List the matter on 07.09.2022 for filing reply.

Presiding Officer

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208 ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.

Appeal No. D-2/32/2021

M/s. Surya Infracon India Pvt. Ltd. Appellant
Through Sh. S.K Khanna, Ld. Counsel for the Appellant

Vs.

RPFC- II, Gurgaon, Gurugram- Respondent
Through Sh. B.B Pradhan, Ld. Counsel for the Respondent
Sh. Ravinder Kumar, Ld. Counsel for Respondent no. 2

ORDER DATED :- 28.07.2022

The Ld. Counsel for the Respondent prayed for some more time to file the reply. Granted as last chance. List the matter on 05.09.2022 for filing reply.

Presiding Officer

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208 ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.

Appeal No. D-2/07/2022

M/s. Delhi Public School Ghaziabad — Appellant
Through Sh. S.K Khanna, Ld. Counsel for the Appellant

Vs.

RPFC-II, Gurgaon — Respondent
Through Sh. B.B Pradhan, Ld. Counsel for the Respondent

ORDER DATED :- 28.07.2022

The Ld. Counsel for the Respondent prayed for some more time to file the reply. Granted as last chance. List the matter on 05.09.2022 for filing reply.

Presiding Officer

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208 ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.

Appeal No. D-2/22/2021

M/s. Angels Infraheight Pvt. Ltd. Appellant
Through Sh. Ravi Ranjan, Ld. Counsel for the Appellant

Vs.

CBT through, APFC-Noida Respondent
Through Sh. S.N Mahanta, Ld. Counsel for the Respondent

ORDER DATED :- 28.07.2022

The Ld. Counsel for the Respondent prayed for some more time to file the reply. Granted as last chance. List the matter on 05.09.2022 for filing reply.

Presiding Officer

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208 ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.

Appeal No. D-2/29/2021

M/s. Sonakshi Management — Appellant
Through Sh. Ravi Ranjan, Ld. Counsel for the Appellant

Vs.

CBT through, APFC, Noida — Respondent
Through Sh. S.N Mahanta, Ld. Counsel for the Respondent

ORDER DATED :- 28.07.2022

The Ld. Counsel for the Respondent prayed for some more time to file the reply. Granted as last chance. List the matter on 05.09.2022 for filing reply.

Presiding Officer

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, ROUSE AVENUE, DISTRICT COURT COMPLEX, DELHI.

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

ATA No. 59(4)2017

M/s. I.V Communication — Appellant

VS.

APFC, Delhi (S) — Respondent

ORDER DATED :-28/07/2022

Present:- Shri S.P Arora & Shri Rajiv Arora, Ld. Counsel for the appellant.
Shri S.C Gupta, Ld. Counsel for the Respondent.

This appeal challenges the composite order dated 18.01.2017 passed by the APFC Delhi South imposing Rs. 60127 and Rs.14816 as damage and interest respectively u/s 14B and 7Q of the EPF and MP Act.

Notice being served the respondent appeared through its counsel and filed a written reply. Both parties argued in detail in support of their respective stand taken in the appeal.

The stand of the appellant is that it is an establishment who had a PF Trust of its own duly recognized by the Income Tax department. On 06.01.1995 the establishment applied for grant of exemption in terms of section 17 of the EPF and MP Act and alongwith the application all the relevant documents of the PF Trust maintained by the appellant were filed. But the respondent instead of granting the exemption covered the establishment under the EPF and mp Act by coverage letter dated 29.03.1996 giving retrospective coverage from 01.03.1991. On 30.10.1996 one 7A inquiry was initiated by the EPFO and as per order dated 01.06.1999 passed in that proceeding a sum of Rs. 26546/- was determined and the appellant was directed to deposit the same within 15 days. The said amount was determined as the balance amount for the period 1.3.1991 to 31.03.1998. In compliance to the said order the appellant establishment deposited the assessed amount i.e 26,546/- and also transferred the entire fund of the PF Trust maintained by the appellant to the respondent on 24.06.1998. But surprisingly a proceeding for damage and interest was initiated by showcause notice dated 07.03.2007 for the period 03/1991 to 07/2015. This period includes the pre-discovery period as the establishment was brought under fold under the EPF by order dated 29.03.1996 retrospectively from 01.03.1991. The A/R of the establishment appeared during the inquiry filed written submission disputing the

period of inquiry mentioned in the notice and specifically objected that damage cannot be levied for the period commencing from 03/1991 to 29/03/1996. It also expressed the bonafides by saying that the assessment made for that period under section 7A has already been deposited. Though, all these facts were brought to the notice of commissioner in writing, he never considered the same and insisted that all the records prior to 2008 be produced. The appellant could not comply the direction as all the records pertaining to the period prior to 2008 were destroyed in a fire accident. To substantiate the same the copy of the FIR, copy of the Fire incident report and the documents relating to insurance claim were produced. But the commissioner never considered the mitigating circumstances and without assigning any reason passed the cryptic order solely accepting the submission made by the department representative. Thereby the appellant has pleaded that the impugned order which is a composite order is unreasonable and unsustainable in the eye of law. The other stand taken by the appellant is that it is an order in which the commissioner has not assigned any reason for imposition of the damage at the maximum percentage prescribed under the scheme as if it is a liability under the tax legislation. On behalf of the appellant it has also been pleaded that the inquiry u/s 14B conducted after a considerable delay has caused prejudice to the appellant who could not produce documents in support of its bonafides. This exercise of power by the respondent stands contrary to the departmental circular which directs the authorities to conduct and complete the inquiry for damage within 3 financial years subsequent to the date of default. The appellant has thereby pleaded for setting aside the impugned order.

The respondent in his written reply has fully supported the impugned order. It has been stated that the sufficient opportunity was given to the appellant for production of records. The authorized representative had appeared on some dates and filed a written objection. Though, for the dispute on the calculation, establishment was called upon to produce the documents, the same was never complied. On the contrary the establishment took the plea of the Fire accident destroying the documents. In such a situation the commissioner had no other option than perusing the documents available in the office and basing on the same passed the impugned order. All other stand taken by the appellant has been denied. It has been specifically pleaded that delay in conduct of the inquiry u/s 14B cannot be prejudicial to the appellant unless it is proved that the prejudice is irretrievable.

During course of argument the appellant mainly raised two questions i.e no finding has been rendered on the mensrea behind the delayed remittance and the inquiry was conducted for a pre-discovery period as well as for a very long period after an unreasonable time gap

causing prejudice to the appellant. In reply the Ld. Counsel for the respondent vehemently challenged both the stand taken by the appellant and argued that for the recent pronouncements by the Hon'ble Supreme Court in the case of **Horticulture Experiment Station, Gonikoppal, Coorg vs. the RPFC (Civil Appeal No. 2136 of 2012 order dated 23.02.2022) mensrea** is no more the required condition for levy of damage or interest as has been done in this case. He argued that in the case of Horticulture Experiment referred supra and the Hon'ble Supreme Court have discussed and distinguished all the earlier judgments including **Organo Chemical Industries vs. UOI, ESI vs. HMT, Mcleod Russel vs. RPFC, APFC vs. the management of RSL Textile** and came to hold that the liability being for the breach of a civil obligation and the liability committed by the employer being the sine qua non for imposition of penalty/ damage the element of mensrea is not required. He thus, argued that the impugned order cannot be found with fault for want of finding on mensrea. He emphasized that the judgment of the Hon'ble Supreme Court in the case of Horticulture Experiment, referred supra being the latest judgment has the overriding effect on the earlier judgment of the bench of similar strength.

The Ld. Counsel for the appellant further argued relying upon the judgments of the Hon'ble Supreme Court in the case of **Mcleod Russel India Limited vs. Regional Provident Fund Commissioner, Jalpaiguri & Others reported in (2014)15 S.C.C 263** and **DCW Employees Co-operative Canteen Pvt. Ltd vs. P.O.EPFAT,2018 LLR 672**, decided by the Hon'ble High Court of Madras, that mensrea is the factor to be considered for levy of damage. Unless existence of the mensrea is pleaded and established against the employer the levy of damage u/s 14B cannot be done automatically as every delay cannot be termed as willful or intentional delay and it depends on the facts and circumstances of each case. The adjudicating authority has to give a specific finding as to why the damage will be levied. He thereby argued that the impugned order which is not only a non speaking order also lacks the finding on mensrea. The Ld. Counsel for the appellant besides relying upon the judgments of Mcleod Russel and DCW Employees referred supra has also placed reliance in the case of **Assistant Provident Fund Commissioner vs. Management of RSL Textile India Pvt. Ltd., reported in 2017LLR 337.**

The argument advanced by the counsel for both the parties on the necessity of a finding on the mensrea before assessing penal damage and for the reliance placed by them on judgments of the Hon'ble SC having contradictory views, it is felt expedient to arrive at a decision as to which judgment, earlier or the later, is to be

followed for reaching at a decision on the necessity of the finding on mensrea.

The admitted facts are that in the impugned order the commissioner has not rendered any finding on the mensrea. Whereas the learned counsel for the Respondent argued that the later judgment in this regard is to be followed and the Hon'ble SC in the latest judgment i.e Horticulture Experiment referred supra, have clearly held that mensrea or actus reus is not an essential element for imposing penalty or damage for breach of civil obligation and liability. He also argued that the Hon'ble SC while passing the judgment in Horticulture Experiment have considered and distinguished the earlier judgments passed in **Mcleod Russel and RSL Textiles**. Not only that, the Hon'ble SC in the case of Horticulture Experiment have also observed that the Judgment of **ESI vs. HMT Ltd (2008)3SCC,35**, which was relied in the judgment of **Mcleod Russel and RSL Textiles** is not binding as the said judgment were passed considering the judgment of the division bench of the Hon'ble SC in the case of Dillip N Shroff and the judgment of Dillip N Shroff has been overruled by the Hon'ble SC in the case of **UOI vs. Dharmendra Textile Processors(2008)13, SCC 369**. The learned counsel for the Respondent Shri Gupta, thus emphasized in his argument that all the earlier judgments governing the field being discussed and distinguished in Horticulture experiment, and the case of Dharmender Textile referred supra and relied in the judgment of Horticulture Experiment being the judgment delivered by a larger bench of three judges, is binding on the courts and Tribunals on the necessasity of the finding on mensrea for levying damage on breach of a civil obligation.

The counter argument advanced by Mr. Arora the learned counsel for the appellant is that the judgments passed in the cases of Mcleod Russel and RSL Textiles are directly on the law relating to the provisions of EPF&MP Act and governing the field for a pretty long period. Those judgments were passed in the year 2014 and 2017 respectively by the division Bench of the Hon'ble SC comprising of two judges. A bench of similar strength cannot overrule the earlier judgment of the co ordinate bench. He also argued that over ruling of the judgment of Dillip N Shroff , relied in the case of Mecloed Russel ,shall not have the effect of automatically over ruling the later judgment unless the same is so done by a larger bench. He thus argued that the judgment and principle decided in the case of Mecloed Russel and R S L Textile still governs the field and the judgment of Horticulture Experiment being the later judgment of the co ordinate bench, the earlier judgment in Mecloed Russel shall prevail.

To support his argument he has relied upon the judgments of the Hon'ble SC in the case of **Sandeep ku Bafna vs. State of**

Maharastra & others, AIR 2014 SC 1745 and submitted that the statement of law pronounced by a division bench is considered binding on the subsequent division bench of same strength or lesser no of Judges. If any contrary view is expressed by the said later bench, the same would fall in the category of per incuriam and the earlier judgment of the co ordinate bench shall prevail. He thereby argued that the view taken in Mecloed Russel and RSL Textiles, in respect of the finding on mensrea still governs the field being the earlier judgment of the co ordinate bench. He has also placed reliance in the judgments of the Hon'ble SC in the case of **Union of India vs. Raghubir Singh(1989(2) SCC 754 Const Bench)**, **Chandra Prakash vs. State of UP (AIR2002 SC 1652 Const Bench)** and **Saha Faesal & others vs. Union of India(AIR 2020 SC 3601)** to argue that the constitution bench of the Hon'ble Apex Court have time again ruled that in order to promote consistency in the development of law and it's contemporary status, the statement of law by an earlier division bench is binding on the subsequent division bench of same or lesser no. of judges.

For the argument advanced by the counsel for both the parties with regard to the effect of the judgment passed by the Hon'ble SC in the case of Horticulture Experiment referred supra, the short and important question before this Tribunal is which judgment is to be followed. At the cost of repetition, be it stated here that this Tribunal is not competent to examine the correctness of the judgments referred supra and only required to take a decision as to which judgment is to be followed.

In the case of Raghubir Singh referred supra, the Hon'ble Constitution Bench of the Apex Court have held

Para 27-

> "There is no constitutional or statutory prescription in the matter, and the point is governed entirely by the practice in India. It is in order to guard against the possibility of inconsistent decisions on point of law by different Division Benches, the rule has been evolved in order to promote consistency and certainly in the development of law and it's contemporary status, that the statement of law by a division bench is considered binding on the division Bench of similar strength or of lesser no of judges."

The same view was again taken by the Hon'ble SC in the case of **Chandra Prakash vs. State of UP (AIR 2002 SC 1652)** which has been relied by the learned counsel for both the parties. In the case of Chandra Prakash the view taken by the Apex court in the case of **Pradeep Candra Parija vs Pramod ku Patnaik h(2002 1 SCC 1)** has been followed.

Not only that, in the case of **Saha Faesal & others vs. Union of India (AIR 2020 SC 3601)**the Hon'ble bench of Five judges have held that

> **Para 23** "it is now a settled principle of law that the decision rendered by a co ordinate bench is binding on the subsequent bench of equal or lesser strength.
>
> **Para 31"** therefore the pertinent question before us is regarding the application of the "Rule of Per in curiam". This court while deciding Pranay Sethi case referred to an earlier decision rendered by a two judge bench in the case of **Sundeep Bafna vs. State of Maharastra (2014)16 SCC 623**,where in the application of the Rule of Per in curium was emphasized.

While considering the argument advanced, it is necessary to say that in the case of Sundeep ku Bafna referred supra the Hon'ble SC have clearly observed that

> "A decision or judgment can be per incuriam to any provision in a statute, Rule or Regulation which was not brought to the notice of the court. A decision or judgment can also be per incuriam if it is not possible to reconcile its ratio with that of a previously pronounced judgment of a co-equal or larger bench, or if the decision of a high court is not in consonance with the views of this court. It must immediately be clarified that per-incuriam rule is strictly and correctly applicable to the ratio decidendi and not to the obiter dicta. It is often encountered in High Court orders that two or more mutually irreconcilable decisions of Supreme Court are cited at the bar. With that the inviolable recourse is to apply the earlier view as the succeeding one would fall in the category of per incuriam.

On a careful reading of the judgments cited by the Ld. Counsel for both the parties it is found that when there are two judgments of coordinate bench with two contrary views taken, the earlier judgment shall be followed as the later judgment falls in the category of per incuriam. The argument of Mr. Gupta Ld. Counsel for the respondent, that Horticulture Experiment judgment though has been delivered by a Division Bench having two judges, infact the case of Dharmender Textile referred supra delivered by a division bench of Hon'ble three judges have been discussed therein and thus, it has a overruling effect on the earlier judgments in the case of Macleod Russel and R.S.L Textile, does not sound convincing for the reason that the judgment of Dharmender Textile was not with relation to the EPF Act and the judgment of horticulture experiment has not overruled the judgment of Macleod Russel and RSL Textile. Thus applying the ratio in the

case of Sandeep Kumar Bafna referred supra the earlier judgment of Macleod Russel and RSL Textile are to be followed.

Now coming to the facts of the present appeal it is evident from the record that the establishment came under the fold of the act w.e.f 01.03.1991 by coverage letter dated 29.03.1996. The department initiated an inquiry u/s 7A for the period 01.03.1991 to 31.03.1198 and assessed the unpaid dues of the establishment which were paid in compliance to the order. But thereafter the present 14B an inquiry was initiated for the period 09/1997 to 07/2015. Thus, the argument of the appellant that damage should not have been imposed for the pre discovery period is not accepted as the code No. was allotted w.e.f 01.03.1991 by letter dated 29.03.1996. But the appellant has stated that the retrospective coverage of the Act created a huge financial burden on the establishment which caused delay in deposit of the subscription sounds convincing. All these pleas though taken during the inquiry were never considered by the commissioner. Thus, the appellant argued about the order passed is without any reason, without finding on mensrea and without assigning the reason for imposition of damage and interest at the highest rate. The appellant argued that the commissioner was neither aware of the discretion vested on him nor the order is supported by any reason for arriving at such a conclusion.

The Ld. Counsel for the respondent while relying upon the judgment of **Gandhidham Spinning & Mfg. Co. Ltd. vs. RPFC and another (1987 Lab.I.C 659 (Guj.)** submitted that when no period of limitation has been prescribed u/s 14B and when the appellant has not succeeded in showing how irretrievable prejudice was caused to him for the delay in proceeding, the plea taken is not available. He also argued that the delay can be taken as a defence of irretrievable prejudice on account of delay or where the appellant is successful in proving that he has changed his position in the meantime. But here is a case where the appellant could not produce the documents in defence for the period commencing from 2008 as the enquiry was conducted for a considerable long period i.e from 1997 to 07/2015 on account of a fire accident. The circumstance explained by the appellant proves how the irretrievable prejudice was caused to him for the delay in initiating the inquiry.

It will not be out of place to mention that the EPFO had issued a circular on 28.11.1990 which provides that the cases in which damages are to be levied as on 30th June 1990 should be disposed of within 3 years and the cases of fresh default entailing damage shall be levied within the close of subsequent 3 financial years. The Ld. Counsel for the respondent though argued that the said circular is only an administrative guidance is not accepted as the quasi judicial authorities are required to function under the scope of the statute as well as following the administrative institution.

Now the other argument of the appellant with regard to the mensrea is to be dealt. After amendment of the EPF and MP Act the word Penal has been added in the provision u/s 14B which has made it obligatory for the inquiring authority to give a finding in respect of mensrea of the establishment attracting imposition of penal damage. In the preceding paragraph it has already been held that the law pronounced in the judgment of Macleod Russel and RSL Textile (supra) makes it mandatory of the part of the commissioner to give a finding on the mensrea. Absence of finding and non consideration of the mitigating circumstances makes the order illegal which is apparent from the impugned order.

Thus, from the totality of the circumstances, the pleas canvassed by both the parties during argument it appears that the impugned order u/s 14B and 7Q has been passed without application of mind and without giving due consideration to the various legal objections taken by the appellant during the inquiry. Thus, it is held that the commissioner has committed patent illegality while passing the composite order u/s 14B and 7Q of the Act which is not sustainable in the eye of law. Hence, ordered.

ORDER

The appeal be and the same is allowed. The impugned order passed u/s 14B and 7Q of the EPF and MP Act is hereby set aside. The amount if any relating to this impugned order has been deposited by the appellant shall be refunded by the respondent within two months hence failing which the amount shall carry interest @ 6% per annum from the date of deposit and till the amount is refunded. Consign the record as per Rules.

Presiding Officer

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, ROUSE AVENUE, DISTRICT COURT COMPLEX, DELHI.

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

ATA No. D-1/02/2019

M/s. Bal Bhawan Public School — Appellant

VS.

RPFC, Delhi (E) — Respondent

ORDER DATED :-28/07/2022

Present:- Shri S.P Arora & Shri Rajiv Arora, Ld. Counsel for the appellant.
Shri Rajesh Kumar, Ld. Counsel for the Respondent.

This appeal challenges the order dated 18.12.2018 passed by the APFC Delhi in exercise of the power u/s 14B of the EPF and MP Act (herein after to referred to as the Act) levying damage of Rs. 5204361/- on the appellant establishment as damage for delayed remittance of the PF dues of its employees for the period 04/1996 to 12/2013.

The plea of the appellant taken in this appeal is that it is an Educational institution ie. Public School covered under the Act retrospectively w.e.f August 1982 and code no. was allotted. Notice dated 09.01.2014 alongwith a statement showing belated deposit of PF dues during the period 01/04/1996 to 21/1/2014 was received where under Rs. 5204361/- was proposed as damage and Rs. 3411372/- was proposed as interest for the delayed remittance. The proceeding u/s 14B ensued and the authorized representative of the appellant establishment appeared before the commissioner and filed a written reply on 03.02.2014. The hearing was adjourned to different dates during which the respondent department also filed a written reply to the written statement of the appellant and the later filed rejoinder to the same. In the written submission several factual and legal issues were raised. It was specifically pleaded by the appellant that the code no. applied by the establishment was allotted retrospectively from August 1982 and a huge retrospective PF liability was determined during a 7A inquiry for the period August 1982 to March 2004. This created a huge financial burden on the establishment, and the establishment somehow or other managed to deposit the same in the year 2005. No periodic inspection of the establishment was conducted by the respondent thereafter. During the inquiry it was pointed out in the written statement and rejoinder that the department has calculated the period of delay taking into consideration the date of encashment of the cheque though as per the

settled law the date of tender of the cheque should have been taken into consideration. It was also pointed out that as per the followed practice of the PF department 5 days grace period is allowed for making the contribution after the due date i.e 15th of the calendar month. But in case of the appellant the said grace period was never allowed or calculated. The appellant has further pleaded that the damages are compensatory in nature and not in all cases it should be imposed as a penalty, as the statute gives discretion to the respondent for imposition of damage in appropriate cases and not in all cases in a routine manner. The other stand taken is that the commissioner has not assigned any reason as to why damage was imposed as no finding has been rendered on the mensrea of the establishment behind the delayed remittance, no reason has been assigned for imposition of damage at the maximum percentage. The appellant has also taken the stand that the commissioner has acted contrary to the departments circular dated 28.11.1990 prescribing the time limit for levying damage u/s 14B of the Act. Though, the said circular of the CBT was duly circulated in the department and it was instructed that in all cases in which damages are yet to be levied as on 30th June 1990 the RPFCs should ensure that all such cases are disposed of within a period of 3 years from the date of circular and in cases of fresh default damage shall be levied within the close of the subsequent 3 financial years. Thereby the appellant has pleaded that the impugned order for violation of departmental circular, for want of reasoning, for not considering the ground taken by the appellant, for want of finding on mensrea and imposition of maximum damage, is not sustainable in the eye of law and liable to be set aside. While pointing out various legal aspects and the position of law settled by the Hon'ble Apex Court and different High Courts the appellant has pleaded for setting aside the impugned order.

The Ld. Counsel appearing on behalf of the respondent has filed written reply objecting the stand taken by the appellant. In the written reply it has been stated that after service of the notice of inquiry almost 4 years time and 67 opportunities were afforded to the establishment to verify the record and cross check the same with regard to the delay as alleged by the department. No reply submission explaining the delay in depositing the Pf dues was furnished. Thus, the argument in the appeal that the order is illegal for want of finding on mensrea is vague and deserves no consideration. It has also been pleaded that the appellant has stated about an earlier assessment order u/s 7A of the Act which has no relevancy with the period of inquiry for the damage and interest. The contention that the delay is attributable to the respondent department has no leg to stand as the establishment was allotted the code No. retrospectively from August 1982 and when there was an assessment earlier for the period August 1982 to March 2004, the establishment should have been vigilant

about the subsequent dues. The respondent has further stated that the commissioner has passed a reasoned and speaking order while dealing with each and every point raised by the appellant in its written objection during the inquiry. There being no difference between intentional or unintentional default, the establishment is liable for damage and interest for the contributions remitted beyond the due dates. It has also been stated that the department during the inquiry did not accept the challans filed by the establishment and asked for production of the bank statements for verification. The establishment despite opportunity did not produce the same. Hence, the order was rightly passed by the commissioner. While answering to the stand of the appellant that the levy of damage has been made after the period of prescription provided under the departmental circular the respondent has stated that there is no amendment to section 14B of the Act prescribing the limitation period for initiation of the proceeding. Citing the judgment of the Hon'ble Supreme Court in the case of **M/s Hindustan Times Limited vs. Union of India and others** he has submitted in favour of the impugned order. It has also been pointed out in the written reply that as per the settled law no administrative direction order or circular can defeat the provision of the statute and the same is intended only to aid the implementation of the provisions and the appellant is not entitled to draw benefit for the delay in holding the inquiry.

The Ld. Counsel for the appellant during course of augment submitted that the written objection and the rejoinder filed by the establishment during the inquiry was not at all considered and no reasoned finding has been rendered on the mensrea of the establishment behind the delayed remittance which in view of the judicial pronouncements makes the order illegal. The copy of the written submission, reply of the department and the rejoinder has been placed on record. On hearing the argument and on perusal of the said written representations including the impugned order, the summon for the inquiry and the calculation attached to the summon it is seen that the summon was issued to the establishment on 09.01.2014 wherein the appellant establishment was called to deposit the damage for the belated remittance for the period from 01.04.1996 to 09.01.2014. The calculation sheet attached to the summon and supplied to the establishment was from November 1997 to May 2013. In the said calculation the date of challan and the period of delay was indicated. But the order challenged in this appeal shows that the assessment of damage was made for the period 04/1996 to 12/2013 which is an enlarged period as shown in the calculation sheet. The appellant while drawing attention to the written submission made during the inquiry has argued that the said statement forwarded alongwith the summon shows the date of encashment of the cheque instead of the date of presentation which stand contrary to the settled position of law. The

actual date of deposit of the cheque should have been taken into consideration for calculation of the days of delay and liability of the damage and interest. In the said written representation it was also pointed out that as per the circular issued by the respondent on 28.11.1990 having subject "prescription of time limit for levy of damage u/s 14B of the Act", there is a clear direction by the CBT that all the cases u/s 14B are to be finalized within 3 years. The cases in which damages are yet to be levied as on 30th June 1990, the RPFCs should ensure disposal of such cases within a period of 3years from the date of issue of the circular and in case of fresh defaulted damages the dame shall be levied within the close of the subsequent 3 financial years. Grievance of the appellant is that none of the submissions were considered by the commissioner to the prejudice of the appellant.

The Ld. Counsel for the respondent during course of argument while pointing out to the impugned order submitted that each and every submissions made by the establishment during the inquiry were considered and answered in the impugned order. Hence, the order passed by the commissioner cannot be held as a non speaking order. This argument and counter argument has made it expedient to examine the order passed by the commissioner and challenged in this appeal.

In the written statement filed during the inquiry, the appellant had raised an objection that the date of presentation of the cheque should have been taken as the date of remittance but not the date of actual credit. It seems the appellant had raised this point while disputing the days of the delay calculated in annexure-A attached to the summon. The commissioner while answering to this objection in Para 6 of the order has observed that the department made due verification of the challans submitted by the establishment. But the objection raised was not accepted and no revised calculation sheet was prepared as the appellant establishment inspite of several opportunities did not produce the authorized Bank statement of the period which could have cross verified with the challans. He has noted the multiple dates on which such opportunity was allowed to the appellant.

But it is surprising to note that the commissioner remained satisfied by asking the appellant to produce the verified bank statements the purpose of which was to find out the dates on which the cheques were presented. The commissioner being a quasi judicial authority has been vested with all the powers of summoning the documents and collecting the evidence. When a dispute with regard to the date of presentation of cheque was raised, the proper course of action on the part of the commissioner would have been to collect the

information from the Bank concerned or from his own office where a challan copy is retained in file. That having not been done, depicts the lack of indulgence on the part of the commissioner in searching the truth and reaching at a correct finding. On the contrary the commissioner has observed that four years time was allowed to the establishment for production of the verified bank statement which he failed to do leading to the assessment of damage as proposed by the office.

The other objection taken by the appellant before the commissioner is with regard to the time within which the inquiry u/s 14B should have been taken up and decided. The circular dated 28.11.1990 has been filed alongwith this appeal. The Ld. Counsel for the appellant submitted that the said circular was brought to the notice of the commissioner and he answered the same in a very callous manner. The said circular clearly reads that the cases in which damages are yet to be levied as on 30th June 1990 should be disposed of within 3 years and the cases of fresh default entailing damage shall be levied within the close of subsequent 3 financial years. This circular when was brought to the notice of commissioner during the inquiry he answered the same with a vague finding that the circulars are articulative in nature and filing of the same seems to be an attempt to confuse the inquiry authority. This approach of the commissioner again seems to be an act of non application of mind. The commissioner in the concluding paragraph of the order has observed that the prayer of the establishment is not worthy of acceptance and it is a clear cut case of delayed remittance as stated in the calculation sheet enclosed to the summon. Thereby he concluded that the establishment miserably failed to explain the circumstances behind the delayed remittance and makes itself liable for damage.

The Ld. Counsel for the appellant during course of argument forcefully argued that besides the objection raised during the inquiry the impugned order also suffers from the deficiency of reasoning which is the spirit of any administrative or judicial order. To support his argument he has placed reliance in the case of **Shri SwamiJi of Shri Admar Mutt etc vs. the Commissioner of Hindu Religious and Charitable Endownment, AIR 1980 SC, 1** wherein the Hon'ble Apex Court have held that "reason is the soul of law and when the reason of any particular law ceases, so does the law itself". The Ld. Counsel for the appellant further argued relying upon the judgments of the Hon'ble Supreme Court in the case of **Mcleod Russel India Limited vs. Regional Provident Fund Commissioner, Jalpaiguri & Others reported in (2014)15 S.C.C 263** and **DCW Employees Co-operative Canteen Pvt. Ltd vs. P.O.EPFAT,2018 LLR 672**, decided by the Hon'ble High Court of Madras, that mensrea is the factor to be considered for levy of damage. Unless existence of the mensrea is

pleaded and established against the employer the levy of damage u/s 14B cannot be done automatically as every delay cannot be termed as willful or intentional delay and it depends on the facts and circumstances of each case. The adjudicating authority has to give a specific finding as to why the damage will be levied. He thereby argued that the impugned order which is not only a non speaking order also lacks the finding on mensrea. The Ld. Counsel for the appellant besides relying upon the judgments of Mcleod Russel and DCW Employees referred supra has also placed reliance in the case of **Assistant Provident Fund Commissioner vs. Management of RSL Textile India Pvt. Ltd., reported in 2017LLR 337.**

To counter this argument the Ld. Counsel for the respondent strenuously argued that the finding on mensrea is no more the required condition for levy of damage as has been held by the Hon'ble Supreme Court very recently in the case of **Horticulture Experiment Station Gonikoppal, Coorg vs. RPFC decided in Civil Appeal No.2136 of 2012 by order dated 23.02.2022.** He argued that in the case of Horticulture Experiment referred supra the Hon'ble Supreme Court have discussed and distinguished all the earlier judgments including **Organo Chemical Industries vs. UOI, ESI vs. HMT, Mcleod Russel vs. RPFC, APFC vs. the management of RSL Textile** and came to hold that the liability being for the breach of a civil obligation and the liability committed by the employer is a sine qua non for imposition of penalty/ damage the element of mensrea is not required. He thus, argued that the impugned order cannot be found with fault for want of finding on mensrea. He emphasized that the judgment of the Hon'ble Supreme Court in the case of Horticulture Experiment, referred supra being the latest judgment has the overriding effect on the earlier judgment of the bench of similar strength.

The argument advanced by the counsel for both the parties on the necessity of a finding on the mensrea before assessing penal damage and for the reliance placed by them on judgments of the Hon'ble SC having contradictory views, it is felt expedient to arrive at a decision as to which judgment, earlier or the later, is to be followed for reaching at a decision on the necessity of the finding on mensrea.

The admitted facts are that in the impugned order the commissioner has not rendered any finding on the mensrea. The learned counsel for the Respondent argued that the later judgment in this regard is to be followed and the Hon'ble SC in the latest judgment i.e Horticulture Experiment referred supra, have clearly held that

mensrea or actus reus is not an essential element for imposing penalty or damage for breach of civil obligation and liability, and that the Hon'ble SC while passing the judgment in Horticulture Experiment have considered and distinguished the earlier judgments passed in **Mcleod Russel and RSL Textiles**. Not only that, the Hon'ble SC in the case of Horticulture Experiment have also observed that the Judgment of **ESI vs. HMT Ltd (2008)3SCC,35**, which was relied in the judgment of **Mcleod Russel and RSL Textiles** is not binding as the said judgment were passed considering the judgment of the division bench of the Hon'ble SC in the case of Dillip N Shroff and the judgment of Dillip N Shroff has been overruled by the Hon'ble SC in the case of **UOI vs. Dharmendra Textile Processors(2008)13, SCC 369**. The learned counsel for the Respondent Shri Rajesh Kumar, thus emphasized in his argument that all the earlier judgments governing the field being discussed and distinguished in Horticulture experiment, and the case of Dharmender Textile referred supra and relied in the judgment of Horticulture Experiment being the judgment delivered by a larger bench of three judges, is binding on the courts and Tribunals for deciding the necessity of a finding on mensrea while levying damage on breach of a civil obligation.

The counter argument advanced by Mr. Arora the learned counsel for the appellant is that the judgments passed in the cases of Mcleod Russel and Rsl Textiles are directly on the law relating to the provisions of EPF&MP Act and governing the field for a pretty long period. Those judgments were passed in the year 2014 and 2017 respectively by the division Bench of the Hon'ble SC comprising of two judges. A bench of similar strength cannot overrule the earlier judgment of the co ordinate bench. He also argued that over ruling of the judgment of Dillip N Shroff , relied in the case of Mecloed Russel ,shall not have the effect of automatically over ruling the later judgment unless the same is so done by a larger bench. He thus argued that the judgment and principle decided in the case of Mecloed Russel and RSL Textile still governs the field and the judgment of Horticulture Experiment being the later judgment of the co ordinate bench, the earlier judgment in Mecloed Russel shall prevail.

To support his argument he has relied upon the judgments of the Hon'ble SC in the case of **Sandeep ku Bafna vs. State of Maharastra & others, AIR 2014 SC 1745** and submitted that the statement of law pronounced by a division bench is considered binding on the subsequent division bench of same strength or lesser no of Judges. If any contrary view is expressed by the said later bench, the same would fall in the category of per incuriam and the earlier judgment of the co ordinate bench shall prevail. He thereby argued that the view taken in **Mecloed Russel and RSL Textiles**, in respect of the finding on mensrea still governs the field being the

earlier judgment of the coordinate bench. He has also placed reliance in the judgments of the Hon'ble SC in the case of **Union of India vs. Raghubir Singh(1989(2) SCC 754 Const Bench)**, **Chandra Prakash vs. State of UP (AIR2002 SC 1652 Const Bench)** and **Saha Faesal & others vs. Union of India(AIR 2020 SC 3601)** to argue that the constitution bench of the Hon'ble Apex Court have time again ruled that in order to promote consistency in the development of law and it's contemporary status, the statement of law by an earlier division bench is binding on the subsequent division bench of same or lesser no. of judges.

For the argument advanced by the counsel for both the parties with regard to the effect of the judgment passed by the Hon'ble SC in the case of Horticulture Experiment referred supra, the short and important question before this Tribunal is which judgment is to be accepted. At the cost of repetition, be it stated here that this Tribunal is not competent to examine the correctness of the judgments referred supra and is only required to take a decision as to which judgment is to be followed.

In the case of Raghubir Singh referred supra, the Hon'ble Constitution Bench of the Apex Court have held

Para 27-

> "There is no constitutional or statutory prescription in the matter, and the point is governed entirely by the practice in India. It is in order to guard against the possibility of inconsistent decisions on point of law by different Division Benches, the rule has been evolved in order to promote consistency and certainty in the development of law and it's contemporary status, that the statement of law by a division bench is considered binding on the division Bench of similar strength or of lesser no of judges."

The same view was again taken by the Hon'ble SC in the case of **Chandra Prakash vs. State of UP (AIR 2002 SC 1652)** which has been relied by the learned counsel for both the parties. In the case of Chandra Prakash the view taken by the Apex court in the case of **Pradeep Candra Parija vs Pramod ku Patnaik h(2002 1 SCC 1)** has been followed.

Not only that, in the case of **Saha Faesal & others vs. Union of India (AIR 2020 SC 3601)**the Hon'ble bench of Five judges have held that

> **Para 23** "it is now a settled principle of law that the decision rendered by a co ordinate bench is binding on the subsequent bench of equal or lesser strength.

Para 31" therefore the pertinent question before us is regarding the application of the "Rule of Per in curiam". This court while deciding Pranay Sethi case referred to an earlier decision rendered by a two judge bench in the case of **Sundeep Bafna vs. State of Maharastra (2014)16 SCC 623**,where in the application of the Rule of Per in curium was emphasized.

While considering the argument advanced, it is necessary to say that in the case of **Sundeep ku Bafna** referred supra the Hon'ble SC have clearly observed that

> "A decision or judgment can be per incuriam to any provision in a statute ,Rule or Regulation which was not brought to the notice of the court. A decision or judgment can also be per incuriam if it is not possible to reconcile its ratio with that of a previously pronounced judgment of a co-equal or larger bench, or if the decision of a high court is not in consonance with the views of this court. It must immediately be clarified that per-incuriam rule is strictly and correctly applicable to the ratio decidendi and not to the obiter dicta. It is often encountered in High Court orders that two or more mutually irreconcilable decisions of Supreme Court are cited at the bar. With him that the inviolable recourse is to apply the earlier view as the succeeding one would fall in the category of per incuriam.

On a careful reading of the judgments cited by the Ld. Counsel for both the parties it is found that when there are two judgments of coordinate bench where two contrary views have been taken, the earlier judgment shall be followed as the later judgment falls in the category of per incuriam. The argument of Mr. Rajesh Kumar Ld. Counsel for the respondent, that Horticulture Experiment judgment though has been delivered by a Division Bench having two judges, infact the case of Dharmender Textile referred supra delivered by a division bench of Hon'ble three judges have been discussed therein and thus, it has a overruling effect on the earlier judgments in the case of Macleod Russel and R. S L Textile, does not sound convincing for the reason that the judgment of Dharmender Textile was not with relation to the EPF Act and the judgment of horticulture experiment has not overruled the judgment of Macleod Russel and RSL Textile. Thus applying the ratio in the case of Sandeep Kumar Bafna referred supra this tribunal is of the view that the earlier judgment of Macleod Russel and RSL Textile are to be followed for deciding the correctness of the order passed u/s 14B.

Now coming to the facts of the present appeal the forceful argument of the appellant is that the commissioner while deciding the liability for damage has not given any finding at all on the mensrea of the establishment behind the delayed remittance. He repeated his

submission that the establishment came under the cover of the Act retrospectively from August 1992. Soon after the coverage an inquiry u/s 7A was initiated for the period August 1992l to March 2004. This created a huge financial burden on the establishment. But somehow or other the establishment made deposit of the deficit dues. When those dues pursuant to the inquiry were deposited the establishment should not have initiated an inquiry u/s 14B for that period for the reason that the delayed remittance was not for any fault of the appellant but for the assessment made by the department. This aspect was highlighted in the written submission filed during the inquiry, but the same was not answered by the commissioner. He thereby argued that the impugned order was passed without any reason and without any finding on mensrea and moreover no reason has been assigned for imposition of the interest at the highest rate.

It is also argued that the commissioner was neither aware of the discretion vested on him nor has assigned any reason for arriving at such a decision. In this regard reliance can be placed in the judgment of **APFC vs. Ashram Madhyamik, 2007LLR1249** wherein the Hon'ble High Court of Madhya Pradesh have held that imposition of full damage is not compulsory and it is discretionary as understood from the word "May" used. Not only that the Hon'ble Supreme Court in the case of **ESIC vs. HMT Limited (2008ILLJ814SC)** have clearly pronounced after considering the **Hindustan Times** case that, when a discretion was conferred on the statutory authority to levy penal damage, the provision could not be construed as imperative. While pointing towards the written objection filed by the establishment before the commissioner during the impugned inquiry, he argued that the said representation was containing all the pleas of the appellant in detail including miscalculation by the department with regard to the days of delay on account of the fact that the date of encashment of cheque was taken as the date of remittance. He also submitted that the grace period allowed by circular dated 13th January 1964 was not considered. This submission of the appellant was countered by the Respondent on the ground that the said circular stands withdrawn by the circular dated 08/12/2016. The learned counsel for the appellant challenged the applicability of the circular dated 08/12/2016 on the ground that the CPFC is not authorized to with draw a circular issued with the approval of the Govt. of India. In view of the said submission it appears that the commissioner made a mistake in calculating the days of delay by denying the grace period and by considering the date of encashment of the cheque as the actual date of deposit, instead of accepting the date of presentation of the cheque as the date of deposit.

The other argument of the appellant is with regard to mensrea. He strenuously argued that after the amendment of the EPF and MP

Act since the word penal has been added before the damage u/s 14B, it has become obligatory for the inquiring authority to give a finding in respect of the mensrea of the establishment attracting imposition of penal damage. He placed reliance in the case of **Mcleod Russel India Limited vs. Regional Provident Fund Commissioner, Jalpaiguri& Others reported in (2014)15 S.C.C 263**and the case of **Assistant Provident Fund Commissioner vs. Management of RSL Textile India Pvt. Ltd., reported in 2017LLR** 337 to submit that the Hon'ble Apex Court held that absence of finding on mensrea makes the impugned order illegal and not sustainable in the eye of law. He also argued that the establishment in its objection before the commissioner had clearly indicated about the mitigating circumstances but the commissioner while passing the impugned order failed to consider the same. Non consideration of the same makes the order again illegal. To support his contention reliance was placed in the case of M/s **Prestolite of India Ltd. vs. the Regional Director and other, AIR1994 Supreme Court, 521.**

On hearing the argument and on perusal of the impugned order passed u/s 14B of the Act, it appears that the commissioner never accepted the objection with regard to the calculation of the damage and interest, gave no finding at all on the mensrea behind the delay in remittance nor considered the written objection filed by the establishment with regard to the miscalculation of days of default. On behalf of the appellant along with the appeal the office copy of the written submission submitted to the APFC has been filed wherein the establishment has stated in clear terms that after going through the statement attached to the notice they found some miscalculation with the regard to the number of days of default. But the impugned order nowhere reveals that a revised calculation was made or the said plea of the establishment was answered. On the contrary the commissioner observed that the establishment since could not produce the verified Bank statements, no revised calculation sheet could be prepared. While observing so the commissioner had omitted to perform the authority vested in him as a quasi judicial authority to summon the relevant documents from the Bank. He rather closed the inquiry abruptly and without considering the objection taken by the establishment and without answering the same passed the cryptic order.

Thus, from the totality of the circumstances and the pleas canvassed in this appeal it clearly appears that the commissioner had passed the impugned order u/s 14B without application of mind and without giving due consideration to the various legal objection taken by the appellant and also failed to give a finding on mensrea which is sine qua non for imposition of penal damage. Thus it is held that the commissioner has committed patent illegality while passing the order

u/s 14B of the Act and the said order cannot sustain in the eye of law. Hence, ordered.

ORDER

The appeal be and the same is allowed. The impugned order passed u/s 14B of the EPF and MP Act is hereby set aside. Consign the record as per Rules.

Presiding Officer

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208 ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.

Appeal No. D-1/06/2022

M/s. Aqdas Maritime Agency Pvt. Ltd. Appellant
Through Sh. Rajiv Shukla & Sh. Sanjay Kumar Ld. Counsels for the Appellant

Vs.

CBT & APFC, Delhi (E) EPFO Delhi Respondent
Through Sh. Narender Kumar, Ld. Counsel for the Respondent

ORDER DATED :- 28.07.2022

The Ld. Counsel for the Respondent prayed for some more time to file the reply. Granted as last chance. List the matter on 09.09.2022 for filing reply.

Presiding Officer

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208 ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.

Appeal No. D-1/02/2022

M/s. Seven Seas Hospitality — Appellant
Through None for the Appellant

Vs.

CBT, APFC-Delhi (N) — Respondent
Through None for the Respondent

ORDER DATED :- 28.07.2022

None is present on behalf of the Respondent. The reply on behalf of the Respondent is still to be filed. List the matter on 25.08.2022 for filing reply by the Respondent. It is made clear that this shall be treated as a last chance to the Respondent for filing the Reply.

Presiding Officer

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208 ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.

Appeal No. D-1/103/2019

M/s. Indian Olympic Association Appellant
Through Sh. Rajiv Shukla & Sh. Sanjay Kumar, Ld. Counsels for the Appellant

Vs.

APFC-Delhi (South) Respondent
Through Sh. Rajesh Kumar, Ld. Counsel for the Respondent no. 1 & 2.
Sh. Gaurav Sharma, Ld. Counsel for the Respondent no. 3 in person.

ORDER DATED :- 28.07.2022

It has been brought to the notice that on the last date of hearing i.e. 24.05.2022, the parties were informed that the next date of hearing in this matter is 28.07.2022. However, the next date of hearing was wrongly printed as 18.07.2022 in the order dated 24.05.2022. The same stands corrected as 28.07.2022.

Respondent no.3 filed the reply. Taken on record. Copy supplied to the Ld. Counsel for the Appellant. List the matter on 09.09.2022 for filing rejoinder.

Presiding Officer

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208 ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.

Appeal No. D-1/46/2019

M/s. G.A Digital Web Word — Appellant
Through Sh. Rahul Sharma, Ld. Counsel for the Appellant

Vs.

EPFC, Delhi (N) — Respondent
Through Sh. S.N Mahanta, Ld. Counsel for the Respondent

ORDER DATED :- 28.07.2022

List the matter tomorrow i.e. 29.07.2022 for consideration of the application filed for restoration of stay granted on report whether the amount as claimed by the Appellant has been credited in the accounts of the Respondent or not.

Presiding Officer

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208 ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.

Appeal No. 903(4)2012

M/s. Times Press Pvt. Ltd. Appellant
Through Sh. S.P Arora & Sh. Rajiv Arora, Ld. Counsel for the Appellant

Vs.

RPFC, Delhi Respondent
Through Sh. S.N Mahanta, Ld. Counsel for the Respondent

ORDER DATED :- 28/07/2022

Arguments heard in part. The request of Ld. Counsel for the Appellant to call for the Lower Court Record of the Respondent as well as tour diary and tour program of the enforcement officer, is allowed. Let the L.C.R, tour diary and tour program be submitted with the Registry of this Tribunal on or before 04.08.2022. List the matter on 17.08.2022 for further arguments.

Presiding Officer

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208 ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.

Appeal No. D-1/12/2021

M/s. Hotel Ashok — Appellant
Through None for the Appellant

Vs.

RPFC, Delhi (W) — Respondent
Through None for the Respondent no. I,
Sh. S.K Khanna, Ld. Counsel for the Respondent no.2

ORDER DATED :- 28/04/2022

The Ld. Counsel for the Respondent no. 2 submitted that although the case was listed in the category of final arguments, however, pleadings are still to be completed as no reply on behalf of the Respondent no. 1, has been filed till date. Perused the record. Accordingly, List the matter on 09.09.2022 for filing reply on behalf of the Respondent.

Presiding Officer