

08.9.2022

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1

MUMBAI

Present

Smt. Pranita Mohanty

Presiding Officer

M/s. Shree Upasani Kanya Kumari Sthan ....Appellant

Vs.

1. Assistant Provident Fund Commissioner... Respondent  
Nashik

2. Shri Upasani Kanya Kumari Karmachari Sangathana

Presence:

For the Appellant

: H.L.Chheda,  
Authorized legal representative

For the Respondent

: Krunali Satra, Adv

ORDER

This order deals with the application filed by the appellant stating therein that during the pendency of the appeal the respondent initiating recovery

proceedings against the appellant and the circumstances demand that a prohibitory order be passed directing the respondent not to take any coercive action against the appellant. The notice of the matter was served on the respondent but none appeared to participate in the hearing.

During course of argument the learned counsel for the appellant submitted that there was an assessment against the appellant which is an establishment performing Pooja and religious activities. During that assessment the respondent came to hold that the EPF&MP Act is applicable to the said establishment. The order dated 17.6.2014 being challenged before this Tribunal the latter order dated 18.5.2016 allowed the appeal and set aside the said order dated 17.6.2014. While the matter stood thus the respondent initiated another enquiry under section 7-A and passed the order on 3.4.2017. Being aggrieved, the appellant establishment filed the present appeal challenging the order of the Commissioner on the ground that the provisions of the Act does not apply to the appellant establishment and as such the order of assessment is illegal. This Tribunal by order dated 12.5.2017 admitted the appeal and passed an interim order of stay on the execution of the order dated 3.4.2017 passed under section 7-A but now the respondent being fully aware of the fact that the applicability of the Act to the establishment is under challenge proceeding further to make assessment in respect of the other periods against the appellant. Not only that the respondent is also taking steps to recover the amount assessed by order dated 3.4.2017. Hence this application. The appellant has prayed for direction to the respondent not to take any action of recovery or assessment against the appellant until the applicability issue is decided by this Tribunal in the present appeal registered as Appeal No.152 of 2017.

The submission made by the appellant has not been controverted. On the contrary, the appellant has filed the photo copy of the notice issued to the appellant wherein the commissioner proposes assessment for the period prior to the current year.

Considering the submission and in exercise of the power conferred under rule 21 of the EPF Appellate Tribunal Rules 1997, it is felt proper to direct the respondent authority not to proceed with any assessment action or recovery action against the appellant establishment until disposal of the present appeal registered as EPFA-152 of 2017 and the issue of applicability is decided.

The matter is adjourned to ~~09.12.22~~ for final argument as the pleading has been completed.



PRESIDING OFFICER

CGIT-1 MUMBAI