

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM LABOUR COURT/EPF APPELLATE TRIBUNAL,
JABALPUR

NO. CGIT/LC/EPFA-16/2019

PRESENT: P.K.SRIVASTAVA
H.J.S.(Retd.)

M/s UNIWORTH LIMITED

APPELLANT

Versus

Assistant Provident Fund
Commissioner,Raipur

RESPONDENT

Shri Ketan Bawariya : Learned Counsel for Appellant.

Shri J.K.Pillai :Learned Counsel for Respondent.

(J U D G M E N T)

(Passed on this 14th day of September-2021)

1. The present appeal is directed against the order dated 26-10-2017, passed by the Respondent/authority under Section 14B and 7Q of the Employees Provident Fund and Misc, Provisions Act,1952, herein after referred to as the word Act, whereby the Respondent Authority has held appellant establishment guilty of depositing the employees provident fund dues with delay and has imposed damages under Section 14B and interest under Section 7Q of the Act.

2. Pleadings have been exchanged, hence arguments of Mr. Ketan Bawariya for appellant establishment and Shri J.K.Pillai for

respondent have been heard by me. I have also gone through the record.

3. At the very outset, it is made clear that since the appeal is maintainable only against the order under Section 14B of the Act and not against the order under Section 7Q, this Tribunal, limits itself only with regard to order under Section 14B of the Act as regards, order under Section 7Q of the Act, since the appeal is not maintainable against such an order, the appellant is at liberty to approach proper forum for this.

4. Facts connected in brief are that there was late deposit of employees provident fund dues by the appellant establishment for which notice under Section 14B of the Act was issued by the respondent Authority to show cause as to why damages be not imposed on it. It is the case of the appellant establishment that they appeared before the respondent authority and did file a written reply to the notice, wherein they stated that they were running into huge loss, during the period and even before the period in notice the establishment was declared sick by B.I.,F.R., hence they could not deposit the employees provident fund dues in time. They did deposit dues later on. The delay was due to the bad financial condition of the establishment company, hence not intentional and requested for withdrawal of the notice. According to the appellant, the respondent authority passed the impugned order ignoring there this contention and evidence on record in this respect, hence this order is bad in law, as it has been passed against the evidence on record, without considering the evidence available on record before the respondent authority. Learned counsel for appellant has submitted that the appellant has taken this ground in the memo of appeal and has stated the fact that this reply, stating the bad financial condition of the appellant establishment was in fact filed before the Respondent Authority. A copy of that reply has been filed as Annexure to the

Memo of Appeal. The appellant has stated this fact on affidavit also.

5. On the other hand, learned counsel for respondent has tried to defend the impugned order with his argument that corroborating documents were infact not filed, hence the Respondent Authority did not consider the defense of appellant establishment before it.
6. I have gone through the impugned order under Section 14B of the Act. The impugned order nowhere mentions the fact of filing any reply by the appellant establishment. The impugned order also does not mention any ground for rejecting the facts or not believing the grounds mentioned in the reply . On any ground including the ground that the grounds taken in the reply were not corroborated by documents. It was incumbent on the respondent authority to direct the appellant establishment to file documents corroborating the stand of appellant establishment that the appellant establishment was in huge loss and was declared sick by the B.I.,F.R, by not doing so and ignoring the fact that it was the case of appellant establishment that the non-deposit was not intentional as the appellant establishment was declared sick during the period, the Respondent Authority has certainly faulted in law.
7. On the basis of above discussion, the impugned order cannot be sustained and the matter deserves to be remanded back to the Respondent Authority with certain directions.

ORDER

Setting aside the impugned order dated 26-10-2017 passed by the Respondent Authority, the matter is remanded back to the Respondent Authority to pass a fresh reasoned order after giving the appellant establishment the opportunity to file documents in support of its reply of notice. Since the matter is

quite old, the Respondent Authority is directed to conclude the proceedings within three months from the date of receipt of this order.

No order as to costs.

(P.K.SRIVASTAVA)

PRESIDING OFFICER

JUDGMENT SIGNED , DATED AND PRONOUNCED.

(P.K.SRIVASTAVA)

PRESIDING OFFICER

Date:14-9-2021