

ORDER SHEET
CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR(MP)

CASE NO. CGIT/LC/EPFA-40-2022

| Date of order of proceeding | Order or proceeding with signature of Presiding Officer | Signature of parties or pleaders where necessary |
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| 30-8-2022 | <p>Matter taken up. Learned Advocate Shri D.K. Agarwal along with Shri Arun Patel, Advocate present for Appellant.</p> <p>Shri J.K. Pillai, Advocate for the Respondent present.</p> <p>Perused the report of the Registry. Order under Appeal has been filed on 18-8-2022 against the order dated 8-7-2022, hence within time. Learned Counsel for the appellant further pressed application under Section 7(o) of the Act. Learned Counsel for the Respondent has preferred written objection which is taken on record.</p> <p>Heard both the sides on application under Section 7(o) of the Act. Learned Counsel for Appellant has submitted some arguments on the merits, in the order under Appeal. He submits that the Appellant Establishment is a Government organization which got the work executed through its contractors, hence the contractors were under primary responsibility to deduct and deposit the employees provident fund dues of its employees. He also submits that the assessment is incorrect because the beneficiaries have not been identified and computation of employees covered under the Scheme has also not been done. Learned Counsel further submits that keeping in view the fact that the Appellant Establishment is a Government Organization run on government funds and will always be available to fulfill its liability on final adjudication of appeal.</p> <p>The application under Section 7(o) of the Act deserves to be allowed and the pre-deposit requires to be waived fully.</p> <p>On the other hand opposing the argument of learned counsel for the appellant, it has been submitted by</p> | |

establishment cannot escape its liability being Principal Employer. The contractors who have been allotted the provident fund registration number have been excluded in the assessment and since the Act itself is a social welfare legislation, the application for waiver of pre-deposit requires to be rejected.

On perusal of record in the light of rival arguments, it is established that the appellant side has been successful in making a prima facie case, at this stage. Keeping in view the fact that the Appellant Establishment is a government organization and in case waiver is not granted, it may run into financial trouble, the application for waiver deserves to be allowed though partially.

At this juncture, learned counsel for the appellant has referred to order of Coordinate Bench of this Tribunal in Lucknow passed in EPF Appeal No.40/2021, 16/2021, 22/2022 and 29/2022 pending between the same parties where the Appellant Establishment has been granted waiver and has been required to deposit only 20% of the amount under Appeal under section 7(o) of the Act as per pre deposit and has submitted that parity be maintained by this Bench also because the matter and the parties both are the same.

This submission has been opposed by learned counsel for the Respondent with the argument that both the facts are independent of each other and the order of one Bench is not binding on the other Bench. Keeping in view the general trend adopted here in this Bench and also the fact that the Coordinate Bench in Lucknow has granted waiver as mentioned above, in the same matter between the same parties, I am of the considered view that interest of justice will be served if the Appellant Establishment is directed to deposit 35% of the amount under Appeal within 30 days from the date of order in favour of **REGISTRAR(CGIT(PAYABLE AT JABALPUR))**. On the condition of this deposit, the appeal is admitted for hearing and recovery of any amount under the Appeal is stayed till disposal of the appeal.

Respondent to counter within four weeks from today with documents after serving a copy thereof to learned counsel for the appellant. Rejoinder if any, within two weeks thereafter.

List the case for arguments on 11-11-2022


(PRESIDING OFFICER)