

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

NO. CGIT/LC/EPFA-29/2017

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

M/S Raipur Plastic Traders
Bjanpuri, Ring Rpad No.2,
Raipur(C.G.)

APPELLANT

Versus

The Assistant Provident Fund Commissioner
Office of EPFO,Regional Office,
Behind LIC Building,
Pandri, Raipur(Chhattisgarh)

RESPONDENT

Shri Ketan Babaria : **Learned Counsel for Appellant.**

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

(J U D G M E N T)

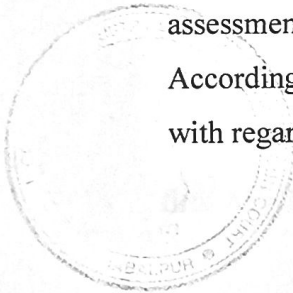
(Passed on this 29th day of March-2022)

1. The Present appeal has been directed against the order dated 17-3-2011 passed by the Respondent Authority holding the Appellant Establishment M/s Akabar Bhai Plastics liable to pay



employees provident fund dues of its employees for the period December-2003 to October-2010 and has assessed the dues as Rs.13,02,619/-.

2. Facts connected in brief are that the present Appellant is a small firm engaged in collecting of plastic waste. The Respondent issued a notice to the firm M/s Raipur Plastic Traders for initiating an inquiry under Section 7(1) of the Employees Provident Fund And Misc. Provisions Act,1952, herein after referred to the word Act", assuming that the firm had engaged 20 or more employees for its work. The period of inquiry was December-2003 to October-2010. The Proprietor of the Appellant firm appeared before the Respondent and submitted that there is no firm in the name and style of Akabar Bhai Plastic at the address given in the notice. The name of the firm was M/s Raipur Plastic Traders but the Respondent continued proceedings against the Akabar Bhai Plastic and passed an impugned order against the Firm Akabar Bhai Plastic whereas the firm M/s Raipur Plastic Traders, the present appellant are running their business on that address. After passing the impugned order a notice of recovery was sent by the Respondent to the Appellant M/s Raipur Plastic Traders against whom there was no order of assessment and no notice was given before the assessment. According to the appellant, the whole proceedings is bad in law as it with regards to the firm Akabar Bhai Plastic.

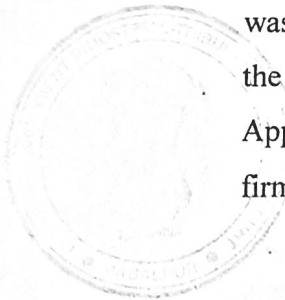


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3. In its return, the Respondent has taken a case that the firm M/s Akabar Bhai Plastic and M/s Raipur Plastic Traders are one and the same carrying business on that address, hence notice was rightly given to firm M/s Akabar Bhai Plastics and inquiry proceeded against the firm Akabar Bhai Plastics.

4. I have heard Shri Ketan Babaria, learned counsel for the appellant and Shri J.K.Pillai, learned counsel for the Respondent and have gone through the record as well.

5. Perusal of the impugned order reveals that notice was given to M/s Akabar Bhai Plastics. Inspection notice were also prepared in the name of firm M/s Akabar Bhai Plastics. It is in the visit note of the Enforcement Officer dated 27-4-2005 which goes to show that he was informed that the name of the firm was M/s Raipur Plastic Traders and not M/s Akabar Bhai Plastic. According to the inspection report, they were asked to submit documents for which they took time but did not supply. It also comes out from the perusal of the impugned order that the appellant i.e. M/s Raipur Plastic Traders did not appear during the inquiry and also that no notice was sent to the appellant establishment. The impugned order was passed against the firm M/s Akabar Bhai Plastic and not against the appellant establishment i.e. M/s Raipur Plastic Traders. The Appellant Establishment has filed ample documents to show that the firm M/s Raipur Plastic Traders and not M/s Akabar Bhai Plastics



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had been conducting business on the given address. Hence in the back drop of this factual scenario , the impugned order cannot be held operative against the appellant firm M/s Raipur Plastic Traders and is held bad in law, so far as it relates to the appellant Firm M/s Raipur Plastic Traders.

6. Needless to say the Respondent is at liberty to initiate fresh inquiry , if they feel so , after noticing appellant firm M/s Raipur Plastic Traders.
7. On the basis of the above discussion , the appeal stands disposed of.

ORDER

Appeal stands disposed of.

No order as to costs.


(P.K.SRIVASTAVA)

PRESIDING OFFICER

JUDGMENT SIGNED , DATED AND PRONOUNCED.


(P.K.SRIVASTAVA)

PRESIDING OFFICER

Date:29-3-2022

