

W.P.No.5980 of 2011

31.01.2012

Shri G.S. Patwardhan, counsel for the petitioner.

This petition is directed against an order dated 2nd December, 2010 passed by the Employees Provident Fund Appellate Tribunal, New Delhi, in A.T.A.No.371(8)of 2003, by which the appeal preferred by the petitioner against an order passed by the Assistant Provident Fund Commissioner, Indore was dismissed on the ground that in the writ petition preferred before this Court by the petitioner Maya Spinners Ltd. Indore, the order passed by the Assistant Provident Fund commissioner was affirmed. The Tribunal refused to interfere in the matter because the order was affirmed by the High court.

Learned counsel appearing for the petitioner does not dispute the aforesaid factual position.

Facts of the case are that the petitioner was assessed by the Assistant Provident Fund Commissioner Indore in a proceeding under Section 7(A) of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 by an order dated 2.4.2003. The petitioner herein, challenged the aforesaid order before the High Court in Writ Petition No. 5462/2003. The High Court, after considering the facts of the case, affirmed the order of assessment and dismissed the petition. The petitioner herein also preferred an appeal against the order dated 2.4.2003 before the Employees Provident Fund Appellate Tribunal New Delhi under Section 7-A of the said Act.

When the fact that the writ petition against the order dated 2.4.2003 was already dismissed by the High Court was brought into notice of the Tribunal, the

Tribunal dismissed the appeal only on this ground.

When the order was directly challenged before this Court and this Court dismissed the petition on merits, then there was no question of preferring an appeal. The Tribunal has rightly dismissed the appeal preferred by the petitioner.

In the result, there is no merit in the petition. The same is dismissed accordingly with no order as to costs.

(Krishn Kumar Lahoti)
JUDGE

(S.K. Seth)
JUDGE

BDJ