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petitions involve the same question of law on similar facts.

2. In the present petition, the challenge is to the impugned order dated 19.06.2023 (Annexure P-4) passed by Central Government Industrial Tribunal-cum-Labour Court, Chandigarh, by which, the Appellate Tribunal has accepted the appeal filed by the Food Corporation of India (in short FCI) and the order dated 31.07.2018 (Annexure P-1) passed by the Assessing authority determining the amount under Section 7A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred as 1952 Act) against FCI has been set-aside.

3. Learned counsel for the petitioners submits that only on the ground that Aartias, whose employees were allegedly working for FCI, was not examined, the assessment done by the petitioners against the FCI has been set-aside by the Appellate Tribunal vide its order dated 19.06.2023 (Annexure P-4).

4. Learned counsel for the petitioner submits that rather than completely setting aside the order of assessment dated 31.07.2018 (Annexure P-1), the assessing authority should have given the opportunity to examine the Aartias for the said purpose and thereafter decide afresh as to whether, the claim of the petitioners qua the assessed amount under Section 7 A of 1952 Act against the FCI is maintainable or not.

5. Learned counsel for the respondents submits that once an order has been passed by authorities concerned and the FCI has not been held liable, the impugned order cannot be set-aside.

6. I have heard learned counsel for the parties and have gone through the case file with their able assistance.

7. The order which has been passed by the appellate Tribunal as



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impugned in the present petition is a well reasoned order. Due reasons have been given for not accepting the claim of the petitioner department that the workman who are working for the Aartias, are to be treated the employees of the FCI so as to claim the deposit of the provident Fund on account of those employees from the FCI.

8 With regard to the assertion of the learned counsel for the petitioner that the Aartias have not been examined, which fact has been taken as a ground to record a findings that in absence of the same no findings could have been recorded by the assessing authority that Aartias were not making payments to the employees and, the same was being done by the FCI, due chance should have been given to the petitioner department to reassess their claim qua FCI. In case fresh assessment is permissible, the petitioners can have their own first assessment on their own end first. In case, some tangible evidences comes out then the petitioners can pass-on that evidences to the FCI and thereafter authorities concerned can decide whether the employees of the Aartias can be treated as employees of the FCI so as to claim department of Provident Fund from FCI. As of now, no such material has been brought on record to show that the order passed by the appellate Tribunal is incorrect to the effect that the workers working with the Aartias were infact the employees of the FCI.

9. Learned counsel for the petitioner submits that keeping in view the above, the present petition may kindly be disposed of having been not pressed any further with liberty to examine the issue after going through the actual facts and by recording the statement of the Aartias as to ascertain who was paying the employees who were working for the Aartias and in case any tangible evidence comes on record fresh assessment will be done by



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affording due opportunity of hearing to the FCI in order to find out whether the FCI can be made liable for the deposit of the provident fund even for the workers who were working for the Aartias or not.

10 It may be noticed that the petitioners will also examine as to whether even if, FCI was paying any such employee of the Aartias still, keeping in view the terms and conditions which are required to be fulfilled for the deposit of the provident fund were fulfilled or not in a manner required under the 1952 Act.

11. Ordered accordingly.

12. Pending civil miscellaneous application, if any, stands disposed of.

13. A photocopy of this order be placed on the file of connected case.

**(HARSIMRAN SINGH SETHI)
JUDGE**

25.03.2025

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No