

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-2, MUMBAI

M/S. Times Innovative Media Limited,
4th Floor, Matulya Centre, Senapati Bapat Marg,
Lower Parel (West), Mumbai 400 013. - APPELLANT

V/s.

Regional Provident Fund Commissioner - II
Regional Office, EPFO Thane,
Vardhan Commercial Complex, MIDC Road No.16,
Wagle Estate, Thane 400 604. - RESPONDENT

ORDER

Dated:01.02.2023

Present: Shri Rajendra P. Gawde, Advocate for the appellant.
Shri Gunjan K. Chaubey, Advocate for the respondent.

The present appeal under Section 7-I of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952, [herein after referred to as 'the Act'] is directed against the order dated 22.07.2022 passed by the respondent under Section 7A of the Act, whereby, an amount of Rs.17,03,003/- as dues has been determined payable by the appellant as well as by M/s. In Sign being the principal employer and the contractor, respectively.

Along with the appeal, there is also an application for waiver under Section 7-O of the Act as well as for stay of operation of the impugned order.

Heard on the said applications.

The learned counsel for the appellant, inter alia, submitted that the amount in question is sought to be recovered by holding the appellant responsible being the principal employer for the default and non compliance committed by the contractor – M/s. In Sign. He further submitted that while

passing the impugned order, the respondent completely ignored the fact that M/s. In Sign is a registered employer under the EPF Act and, therefore, the appellant could not be held to be the principal employer in relation to M/s. In Sign. Thus, he argued that, prima facie, no liability could be fixed upon the appellant jointly & severally with the contractor – M/s. In Sign. Therefore, he prayed that application for waiver may be allowed and operation of the impugned order may be stayed.

On the other hand, learned counsel for the respondent resisted the said contentions and supported the impugned order primarily on the grounds which prevailed with the respondent.

After hearing both the sides and going through the case file carefully, I am of the considered opinion that there are arguable points in the appeal and there is, prima facie, merit in the contentions raised by the learned counsel for the appellant.

Thus, in view of the above discussion, application for waiver as well as the application for stay are disposed of by directing the appellant to deposit 35% of the amount of Rs.17,03,003/- with the respondent within three weeks from today and recovery of the remaining amount shall remain stayed during pendency of the present appeal. Also, till the decision of the appeal, operation of the impugned order shall remain stayed.

It is made clear that nothing observed in this order shall be construed as an opinion on the merits of the case.

To come up on 06.06.2023 for filing reply by the respondent.

February 01, 2023

Sd/-
(LAXMI NARAIN JINDAL)
Presiding Officer
CGIT -2, Mumbai