

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-2, MUMBAI**

M/S. Sangli Miraj Kupwad Sahar Corpn.,  
Office, SMKC Corporation Office Sangli City,  
Opp. Sangli City Police Station, Sangli,  
Tal. Miraj, Dist. Sangli – 416 416.

- APPELLANT

V/s.

Regional Provident Fund Commissioner – I  
EPFO, Regional Office, Kolhapur,  
238/6 'E' Ward, Tarabai Park,  
Kolhapur – 416 003.

- RESPONDENT

**ORDER**

Dated:01.03.2023

Present: Shri Sanadiip Mutaalik, Advocate for the appellant.  
Mrs. Kashmira Vashi Sawant, 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 03.11.2022 passed by the respondent under Section 7A of the Act.

Along with the appeal, there is also an application for condonation of delay. In the said application, it is averred that date of the impugned order is 03.11.2022 and the same was communicated to the appellant and received by Ms. Meghmalti Parmod Kamble, Clerk, on 07.11.2022 but she did not put up the said order before the authorities of the appellant. It is also averred that the respondent issued order dated 17.01.2023 under Section 8F(3)(1) of the Act upon the appellant which was received on 06.02.2023 and it was thereafter that the appellant obtained knowledge of the passing of the impugned order dated 03.11.2022. It is contended by the learned counsel for the appellant that the said concerned Clerk has since been issued show cause notice and departmental action against her is contemplated. He further contended that though, limitation to file the present appeal is 60 days as per

Rule 7(2) of the EPF Appellate Tribunal (Procedure) Rules, 1997, but the same is extendable by another 60 days on sufficient cause being shown. Thus, he argued that in the present case, there is sufficient ground to condone the delay in filing the appeal which is not beyond total 120 days.

On the other hand, learned counsel for the respondent did not wish to file reply to the said application and opposed the same orally.

After hearing both the sides, I am of the considered opinion that delay in filing the present appeal deserves to be condoned. As per Rule 7(2) of the EPF Appellate Tribunal (Procedure) Rules, 1997, appeal could be filed within 60 days and a further 60 days' delay can be condoned on showing sufficient cause for not preferring the appeal within the prescribed period of 60 days. In the present case, sufficient cause has been shown by the appellant for not preferring the present appeal within 60 days. Thus, the same having been preferred within 120 days, this Tribunal is competent to condone the delay. Therefore, keeping in view the contentions raised by the learned counsel for the appellant, delay in filing the present appeal is condoned and the said application is accordingly, allowed.

Along with the appeal, there is also an application under Section 7-O of the Act for waiver of the amount as determined by the respondent under Section 7A of the Act.

There is also an application for stay of the impugned order.

As per the impugned order, the amount, as determined by the respondent under Section 7A of the Act, is Rs.24,54,59,967/-.

The appellant herein is the Municipal Corporation of Sangli – Miraj – Kupwad Shahar Corporation, Sangli.

While seeking waiver of deposit and stay of recovery of the amount determined by the respondent under Section 7A of the Act, learned counsel for the appellant, inter alia, contended that the impugned order is vitiated on account of the fact that the same suffers from violation of the principles of natural justice. Elaborating his contention, he submitted that as per the interim order dated 02.07.2022, the case was adjourned to 28.07.2022 by the respondent and the Area Enforcement Officer (AEO) was directed to submit his report before the said date in order to close the matter. He further contended that, however, the case was not taken up by the respondent on 28.07.2022 or thereafter and straightaway, the impugned order dated 03.11.2022 was passed.

When learned counsel for the respondent was confronted with the said argument of the learned counsel for the appellant, she was unable to controvert the same and she submitted that to clarify the factual position, she needs to file a reply to the appeal as well as to the said applications for waiver and stay. Thus, she sought an adjournment.

At this juncture, learned counsel for the appellant submitted that the appellant is a local body and its bank account has been freezed by the respondent vide order dated 17.01.2023 under Section 8F(3)(1) of the Act and in case, the same remains freezed, then, the appellant would not be able to pay salary to its employees and undertake other business. He offered to deposit some amount as a temporary measure subject to decision of his applications for waiver and stay.

In my opinion, this submission of the learned counsel for the appellant regarding exceptional hardship merits consideration.

Thus, in view of the above, at this stage, in my opinion, ends of justice would be fully met if the appellant is directed to deposit 25% of the amount of Rs.24,54,59,967/-, as determined by way of the impugned order, with the respondent within three weeks from today and I order accordingly. The recovery of the remaining 75% of the said amount shall remain stayed meanwhile. The bank account of the appellant shall be defreezed forthwith.

It is made clear that in case, the said 25% amount is not deposited within the above stipulated time, the stay order shall stand vacated automatically and the entire amount shall become recoverable.

It is also made clear that this order is not being made on merits of the case and it is purely to enable the respondent to file response to the appeal, so that, arguments of both the sides are heard after their pleadings are complete and a reasoned order is passed.

Now to come up on 06.04.2023 for reply to the main appeal as well as for replies to the applications for waiver and stay.

Arguments on the waiver and stay applications shall also be heard on that day.

The respondent is also directed to bring the entire proceedings record on the next date of hearing for perusal.

March 01, 2023

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