

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

APPEAL NO. CGIT- 2 / EPFA 108 /2024

M/s. Securevalue India Ltd. - Appellant

V/s.

The Regional Provident Fund Commissioner-I,
EPFO, Bandra (E) Mumbai. - Respondent

ORDER

(Delivered on 12-11-2024)

This is an application for condonation of delay in filing an appeal.

According to the appellant-applicant, the legality of orders dated 09.02.2024 passed u/s. 14 B & 7Q of the EPF & MP Act 1952, is under challenge in the present appeal. The orders copies were received on 29.07.2024, when the representative had visited the office of the respondent-opponent for making enquiry about the demand notice dated 27.06.2024. The applicant states that the reply was submitted on 15.05.2024, the same was accepted by the opponent. In fact under normal circumstances, the orders should have reached on 12.02.2024, and appeal was required to file on 12.04.2024 as such there is delay of about 110 days in filing an appeal thus prayed for condonation of delay in filing an appeal.

The opponent resisted the application by reply. The opponent submitted that, the enquiry was in respect of

damages and interest was concluded on 08.02.2024 and the orders were passed on 09.02.2024. Those orders were dispatched by speed post on 12.02.2024, those orders were made available on E-proceeding portal as such the appeal should have been filed within 60 days of receiving such orders as such there is delay in filing the appeal therefore applicant is not entitled for condonation of delay in filing an appeal and requested for rejection of an application.

There cannot be any quarrel about the legal position in respect of limitation of filing an appeal and accordingly the appeal should have been filed within 60 days from the date of passing of an order and on satisfaction of the Tribunal that, the appellant was prevented by just and sufficient cause then the Tribunal can condone the delay in filing an appeal that too only for another 60 days and in any case Tribunal cannot condone the delay of more than 120 days in filing an appeal, the same has been observed by our High Court Bench at Aurangabad in Writ Petition No.15694/2023 M/s. Siddhi Engineering v/s. R.P.F.C Aurangabad relied on behalf of the opponent-respondent that too after considering the decision of the Apex Court of the land.

In the case in hand, the order under appeal has been passed on 09.02.2024 and the present appeal has been filed on 02.08.2024. Though the opponent stated in reply that, the orders dated 09.02.2024 were dispatched on 12.02.2024 by speed post and those orders were made available on E-proceeding portal however, the opponent failed to produce any documents in respect of service of the orders to

the applicant. True it is that, in the enquiry in respect of damages and interest based on summons dated 07.12.2023 Ms. Geeta Saldana & Mr. Varun K. appeared on behalf of the applicant and that enquiry was closed on 08.02.2024. It does not mean that, the applicant was aware about the passing of orders.

Moreover it is contended on behalf of the applicant that, they had no knowledge about the order under challenge. They sent a letter on 15.05.2024 to the opponent in respect of rebate during Covid-Period, the copy of that letter is available on that record as Annexure-4. On perusal of that letter, there appears endorsement about the receipt of the letter by the opponent on 21.05.2024. In fact, when the enquiry based on summons dated 07.12.2023 passed on 09.02.2024, then there was no necessity for the opponent to accept that letter dated 15.05.2024 or the opponent could have informed to the applicant in respect of non-accepting the letter as the enquiry was closed and orders were passed in that matter but opponent failed to inform to the applicant accordingly, in such circumstance the inference that, the applicant had no knowledge about the orders till 29.07.2024 can be drawn.

Furthermore the applicant came up before the Court that, when they approached/visited the office of the respondent for making an enquiry about demand notice dated 27.06.2024 on 29.07.2024 that time only they came to know about the order, which was passed on 09.02.2024 and considering the date of knowledge the present appeal is

certainly within 60 days or atleast within 120 days from the date of order therefore the applicant is entitled for condonation of delay in filing the appeal.

In the result, the application is allowed. The delay in filing the appeal is condoned.

Sd/-

Date: 12-11-2024

(Shrikant K. Deshpande)
Presiding Officer
CGIT -2, Mumbai