

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

APPEAL NO. CGIT- 2 / EPFA /111/2023

M/s. Sinnar Bidi Udyog Ltd.

- Appellant

V/s.

The Regional Provident Fund Commissioner-I,

EPFO, Nashik.

- Respondent

ORDER BELOW EX- 11
(Delivered on 24-02-2025)

Read application for Review of order dated 15.07.2024 filed by the appellant/applicant. Perused the say given on behalf of the respondent/opponent. Heard both the parties.

2. According to the applicant, the application for refund dated 02.07.2024, came to be rejected by this Tribunal for want of evidence, however they are furnishing the evidence in support of its contention as such the copy of intimation letter dated 16.10.2023 to show that, the opponent was having knowledge about the filing of appeal. The applicant contended that, the Review would be maintainable if same is necessitated on account of some mistake or for sufficient reasons and not only on discovery of new and important piece of evidence, thus prayed for Review of order dated 15.07.2024, passed by this Tribunal and further prays for allow the application for refund dated 02.07.2024. The reliance has been placed on the decision of **Bombay High Court in Navneet Motors v/s. Union of India MANU/MH /1804/2011.**

3. As against this the opponent submitted that, the applicant filed an appeal beyond the period of 60 days and the prohibitory order came to be issued after appeal period is over and also in accordance with the law. The application for Review is not filed within 30 days therefore, the applicant is not entitled for Review of order dated 15.07.2024 and ultimately prayed for rejection of the application.

4. I have given anxious considerations to the oral submissions advanced on behalf of the parties. It is worthwhile to mention here that, while passing the order dated 15.07.2024, it was appreciated that, the appeal challenging the order dated 18.08.2023 was filed on 16.10.2023 and the prohibitory order was passed on 31.10.2023, however the counsel for the applicant pointed out that, the fact of filing appeal was communicated to the respondent by letter dated 16.10.2023, which was received to the opponent on 17.10.2023. True it is that, mere filing of appeal and also the knowledge of filing of appeal may not be sufficient for not issuing prohibitory order, however it is accepted from the Authority to follow the provisions of Sec. 8-B of the EPF & MP Act 1952.

Needless to say that, while invoking the provisions of Sec.8-B of the EPF & MP Act 1952, it is expected that, at the time of issuing recovery certificate, the copy of that certificate required to be issued to the employer and only after declaring the employer as defaulter, then only the opponent can proceed for recovery of amount or attachment which was effected in present matter, however there is absolutely nothing on record to show that, any recovery certificate was issued by the opponent, it was served to

the applicant and only after declaring the applicant as defaulter, the prohibitory order/recovery order was issued by the opponent.

5. In the decision of our Bombay High Court (supra), relied on behalf of the applicant, it has been appreciated that, “It is crystal clear that, the respondent have liberty to follow the procedure as prescribed under that for implementing their order and in the matter before Hon’ble Lordship, the respondent without following the procedure as prescribed under Sec. 8-B of the Act and without declaring the petitioner as defaulter, passed an order and recovered the amount therefore it has been held that, the amount recovered by the respondent without following due procedure and thereby directed to refund the amount recovered from the Bank Account of the employer.”

As regards the limitation, no limitation is prescribed under the EPF Act therefore I do not think that, the limitation in filing Review application is much relevant in the present case.

In view of the facts and circumstances of the case coupled with the observations of Bombay High Court discussed about, I am inclined to Review my order dated 15.07.2024.

In the result, the application is allowed. The order dated 15.07.2024 is reviewed, the respondent/opponent is directed to refund the amount to the applicant attached from the Bank Account within a period of 08 weeks from the date of this order.

Sd/-

Date: 24-02-2025

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

