

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

**APPEAL NO. CGIT- 2 / EPFA /128 /2023**

M/s. Ranivan Exports Pvt. Ltd - Appellant

V/s.

The Assistant Provident Fund Commissioner,

EPFO, Pune.

- Respondent

**ORDER**

**(Delivered on 04-11-2024)**

M/s. Ranivan Exports Pvt. Ltd/ appellant-applicant has challenged the legality of the order dated 31.05.2023, passed u/s. 14-B & 7-Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, (for-short "the EPF Act") and by this application, the applicant prays for stay to the effect and operation of the order under appeal during pendency of lis.

2. According to the applicant, the company engaged in the business of development of wooden furniture and related products, covered under the said Act since 04.06.2011, regularly filing the returns and paying contributions still the Assistant Provident Fund Commissioner/opponent issued a composite summons dated 29.10.2021 u/s. 14-B & 7-Q of the said Act and initiated inquiry for the period from 06/2011 to 02/2016 for determination of damages & interest however while

initiating inquiry, incorrect procedure was followed which was against the principle of natural Justice. There is no mention in the order about the use of money of employees for business nor considered mitigating circumstances. Not only this but, without proving evidence on record the opponent has passed the order contrary to the provisions of Law as such the order under appeal is illegal.

3. As against this, it is contended on behalf of the opponent that, summonses u/s. 14-B & 7-Q of the said Act were issued and inquiry was initiated however in spite of various opportunities none attended the inquiry from 14.07.2021 to 31.05.2023 therefore the order was passed on 31.05.2023, for an amount of Rs. 17,57,679/- & Rs. 12,87,460 /- respectively. No reasons for delay beyond the control were communicated during the course of inquiry. No discriminated power is given to relax the quantum of damages and the amount of damages has calculated in accordance with the scheme, as such there is no illegality in the order under appeal therefore no stay be granted and the applicant be directed to deposit the amount of interest and 50% amount assessed towards damages.

4. I have heard Mr. Chheda representative for the applicant and Mrs. Sawant Advocate for the opponent.

5. It will not be out of place to mention here that, it reveals from the copy of order under appeal that, the summonses were issued to the applicant and thereby asked to submit reply as to why the amount of damages and interest mentioned in the summonses should not be recovered from the applicant. It means the amount of damages and interest were already quantified at the time of

issuing summonses and as the applicant failed to submit reply and none present for the applicant in response to summonses therefore the amount quantified in the summonses were finally assessed while passing the order under appeal.

6. Furthermore, it reveals that, there was no inquiry and the amount was determined as per record available with the opponent. True, it is that, it was obligatory on the part of the applicant to submit reply and participated in the inquiry based on summonses, in such circumstances coupled with the pleadings of the applicant about violation of natural Justice and denial of opportunities as well as mitigating circumstances, it can be safely infer at the stage that, the applicant has made out the prima-facie case. Similarly, considering the other facts and circumstances of the case, in my opinion the balance of convenience lies in favor of the applicant and considering the comparative hardships the applicant is entitled for stay to the effect and operation of the order under appeal.

7. It is worthwhile to mention here that, while passing the order under appeal in respect of damages the opponent Authority has assessed the amount of Rs. 17,57,679/- towards damages & Rs. 12,87,460/- towards interest. In view of this, I am directing the applicant to deposit the total amount of interest i.e., Rs. 12,87,460/- within four weeks with the opponent by Demand Draft and only after depositing the amount by the applicant, the order under appeal in respect of damages as well as interest will remain stayed till the disposal of the appeal.

In the result, the application is allowed. The order under appeal will be stayed only after depositing the amount of interest i.e., Rs. 12,87,460/- within four weeks from the date of this order.

Sd/-

Date: 04-11-2024

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