

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

APPEAL NO. CGIT- 2 / EPFA /164/2024

M/s. Indoline Industries Pvt. Ltd.

- Appellant

V/s.

The Regional Provident Fund Commissioner-I,

EPFO, Nashik.

- Respondent

**ORDER
(Delivered on 07-04-2025)**

M/s. Indoline Industries Pvt. Ltd./ appellant-applicant has challenged the legality of order dated 04.11.2024, passed u/s. 7-A of the EPF & MP Act 1952 (for-short, the “EPF Act”) by RPFC Nashik/ respondent-opponent and by these applications, the applicant prays for waiver from pre-deposit of 75% amount as required u/s. 7-O of the EPF Act, stay to the effect and operation of the order under appeal during pendency of lis and also for stay to the prohibitory order dated 18.02.2025 passed by the opponent and thereby seized the bank Account of the applicant.

2. The applicant’s company is a furniture manufacturing company, situated within the limits of Municipal Corporation Nashik, covered under the EPF Act and complying with the provisions of EPF Act. Initially the notice dated 04.07.2022 was received for payment of dues of Rs.85,41,289/- and after reply to that notice, the applicant was served with the show cause notice dated 12.01.2023 for enquiry u/s. 7-A of the EPF Act. In the enquiry, the Enforcement Officer submitted fresh report on 07.06.2023 for the

amount of Rs.61,49,785/-, however the amount shown in the report was not correct. The applicant submitted that, during enquiry ratio laid down by Soorya Roshni case was raised, however the same was not considered. The proceedings conducted by the opponent are not legal, nor proper being court under Civil Procedure Code. The order passed by the Authority is not speaking order and while considering the process as quasi judicial, the Authority exercised all powers as if it is full fledged Court under the powers granted as per Civil Procedure Code. The applicant further submitted that, while letter dated 20.09.2024 and 07.10.2024, various anomalies were pointed out in the answers given by the Enforcement Officer during his evidence in the enquiry, however those were not considered by the Authority, as such the order under appeal is illegal, improper and against the provisions of Law.

The applicant company is facing financial problems. It is very difficult to pay 75% amount therefore requested for reducing the pre-requisite of 75% amount as per Section 7-O of the EPF Act.

The applicant also submitted that, by order dated 18.02.2025, the Bank Account of the applicant has been frozen by the Authority and as the order on which the prohibitory order has been passed is under challenge, therefore the opponent Authority be directed to de-freeze the Bank Account.

3. The opponent resisted the application by separate reply. The opponent contended that, as per Section 7-O of the EPF Act, no appeal by the employer shall be entertained by the Tribunal, unless he has deposited with it 75% of the amount due from him as determined by an officer referred to in Section 7-A of the

EPF Act. The application for waiver filed by the appellant is baseless, non-sustainable, therefore the applicant is required to be deposited 75% of the amount. The opponent further contended that, for the period from April 2016 to 03 March 2021, the show cause notice/summons was issued to the applicant and initiated enquiry, in which the applicant was represented by Mr. Purushottam Shinde. During enquiry, the opportunity was given to the applicant and on conclusion of enquiry, the Authority has determined the amount u/s. 7-A of the EPF Act and the same is legal and proper.

The opponent also contended that, the prohibitory order has been issued after completion of period of appeal therefore for recovery of amount assessed in the order, the prohibitory order has been passed and thereby freezed the Bank Account of the applicant, the same is legal, proper and in accordance with the procedure of Law and ultimately prayed for rejection of the application.

4. I have heard Mr. Jappe advocate for the applicant, and Mr. M.N. Rajput advocate for the opponent. Perused the case papers, more particularly the order under appeal as well as various documents placed on record alongwith the appeal names.

5. Admittedly, for the period from April 2016 to March 2021, the enquiry was initiated against the applicant u/s. 7-A of the EPF Act, in which the applicant was represented by his representative. The opportunity to cross examined the Enforcement Officer was also given to the applicant and thereafter the Authority has passed an order under appeal. The applicant in his appeal memo has specifically stated that, the Authority exercised the full fledged powers of the Court granted under Civil Procedure Code and also on other hand contended that, under the guise of being quasi

judicial, tried to escape from the procedure, which has been prescribed under the Civil Procedure Code. In fact, the proceedings conducted by the Authority is certainly a quasi judicial proceedings and not like a court under Civil Procedure Code, however the quasi judicial authority can exercise some powers in proceedings as such it is certainly requires to be considered while deciding the appeal on merit.

Much is argued about not appreciating the Soorya Roshni case, however the Authority has considered that aspect while passing the order under appeal. Moreover, the correctness of the same can be seen by this Tribunal while deciding appeal.

6. Furthermore considering all these various points raised by the applicant in the appeal, those points can be dealt with exhaustively while deciding the appeal on merit, however considering the points raised by the applicant it can be said that, the applicant has made out a prima-facie case at the stage. Similarly, considering the facts and circumstances of the case, in my in my opinion, the balance of convenience also lies in favor of the applicant and considering the comparative hardship, the applicant is entitled for stay to the effect and operation of the order under appeal till the disposal of the appeal on merit.

7. As regards the application for waiver, it is clear from the relevant provision that, No appeal by the employer shall be entertained by the Tribunal, unless he has deposited with it 75% of the amount due from him as determined by an officer referred to in Sec. 7-A of the EPF Act. It means the deposit of 75% amount is mandatory at the time of filing appeal and financials problems of the company cannot be a ground for waiver from depositing the amount

as required u/s. 7-O of the EPF Act, however considering the points raised the appeal, instead of 75% amount, I am directing the applicant to deposit 50% of amount determined in the order u/s. 7-A of the EPF Act with the respondent.

8. Undisputedly, the prohibitory order has been issued on the basis of order under appeal and by this order, the effect and operation of the order has been stayed till the disposal of the appeal on merit, therefore it will be just to direct the opponent to De-freeze the Bank Account of the applicant which was freezed by prohibitory order issued by the Authority. In such circumstances, I am directing the opponent to De-freeze the Bank Account of the applicant by issuing letter to the Bank Authority only on depositing 50% amount determined in an order passed u/s. 7-A of the EPF Act and if the whole amount is recovered from the Bank then by keeping 50% amount, returned the remaining amount to the applicant.

9. In the result, the applications are allowed. The opponent is hereby directed to stay the effect and operation of the order under appeal till the disposal of the appeal on merit only on depositing 50% amount towards compliance of Section 7-O of the EPF Act. The opponent is further directed to De-freeze the Bank Account of the applicant by issuing letter to the Bank Authority only after depositing the 50% of amount as per Section 7-O of the EPF Act as determined in the order under appeal with the respondent.

Date: 07-04-2025

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

