

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

APPEAL NO. CGIT- 2 / EPFA /178/2024

M/s. John Deere India Pvt. Ltd. - Appellant

V/s.

The Regional Provident Fund Commissioner-I,

EPFO, Pune. - Respondent

ORDER

(Delivered on 15-04-2025)

M/s. John Deere India Pvt. Ltd./ appellant-applicant has challenged the legality and propriety of order dated 23.10.2024, passed u/s. 7-A of the EPF & MP Act 1952 (for-short, the “EPF Act”) by RPFC Pune/respondent-opponent and by this application, the applicant prays for stay to the effect and operation of the order under appeal during pendency of lis.

The applicant establishment is engaged in the business of manufacturing Tractors, registered under various applicable law and complying the provisions of the EPF Act by remitting PF contribution on or before the due date of each month for eligible employees, still the opponent for the period from 04/2017 to 11/2022 issued summons dated 24.01.2023 and enquiry was concluded on 23.10.2024 and thereby imposed liabilities of dues of Rs.16,52,160/- u/s. 7-A of the EPF Act. The applicant submitted that, the opponent passed assessment order without affording adequate opportunity to file objections in the enquiry. The assessment is based on misinterpretation of records and opponent failed to appreciate the varying nature of allowances

paid to the employees. The majority of employees drawing basic salary above statutory limits, however calculated the dues for these employees for months in which their salary appeared to be below Rs.15,000/-.

The opponent failed to consider that, no dues can be assessed in respect of employees who have left the employment during enquiry period and withdraw their Provident Fund amount as such the calculation of such cases is incorrect, the opponent failed to consider the mitigating circumstances and the statement filed in the enquiry as such the order under appeal is illegal and improper.

The opponent resisted the application by reply. The opponent contended that, the applicant paid various allowances as conveyance, other, education, uniform, medical, professional allowance universally to all employees which would qualify as basic wages universality would qualify as basic wages. The applicant never informed regarding excluded employees in the requisite forms required under the Act, however during assessment restricted contributions to the wage ceiling of Rs.15,000/- has been considered while passing the order under appeal and request to restrain all further proceeding is irrelevant, thus requested that, the application be rejected.

I have heard Mr. Kulkarni advocate for the applicant and Ms. Vartika Anand representative for the opponent.

Admittedly the present appeal has been filed within the prescribed period of limitation and the applicant has specifically pleaded in the application that, the applicant has deposited 100% of the amount as imposed by the opponent as

such made compliance of the provisions of Sec.7-O of the EPF Act, as such the appeal is admitted.

After carefully scanning the oral submissions advanced on behalf of the parties in the light of copy of order under appeal it reveals that, on the basis of inspection conducted in the year 2020 and report of Enforcement Officer dated 29.01.2020, the applicant was served with the show cause notices on 27.02.2020 and 30.09.2021. The applicant submitted reply to these show cause notices, still the proceeding u/s. 7-A of the EPF Act was initiated for the period from 04/2017 to 11/2022 and after enquiry the opponent assessed the amount of contribution vide order which is under appeal.

During enquiry, the counsel for the applicant raised various points such as while passing the order, the excess amount paid by the applicant was not considered. The detail information regarding short fall in payment was never informed. The purpose of allowances given to the employees as well the fact that, the allowances are not paid universally was not considered. Similarly specific permissions required as per circular was ignored by the authority.

Though the representative appeared on behalf of the opponent attempted to deny all these contentions during her submissions, however to my mind all these aspects needs to be considered exhaustively and can be dealt while deciding the appeal on merit. Still considering these aspects it can be safely said that, the applicant has made out a prima-facie case and balance of convenience lies in favour of the applicant. The fact that, the applicant has deposited the whole assessed amount with

the opponent as such there cannot be any irreparable loss or hardship to the opponent and in absence any loss much less irreparable. The applicant is certainly entitled for stay to the effect and operation of the order under appeal till the decision of appeal on merit.

In the result, the appeal is admitted. The application is allowed. The opponent is directed to stay the effect and operation of the order under appeal till the decision of appeal on merit.

Sd/-

Date: 15-04-2025

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