

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-2, MUMBAI

M/S. Arvind Advertising & Selling Agencies Pvt. Ltd.

H-430, Tilak Path,

Nashik – 422 001.

- APPELLANT

V/s.

Regional Provident Fund Commissioner

Regional Office, EPFO Nashik,

Plot No. P-11, Bhavishya Nidhi Bhawan,

MIDC, Satpur, Nashik – 422 007.

- RESPONDENT

ORDER

Dated:02.02.2023

Present: Shri Milan Bhayani, A.R. for the appellant.

Ms. Kashmira Vashi Sawant Advocate for the respondent.

The appellant had filed an application for early hearing on 30.01.2023 and notice thereof was given to the respondent for today.

The learned counsel for the respondent has filed reply to the main appeal as well as the reply under Section 7-O of the Act and she has no objection to the taking up of the matter on today's board.

In view of the no objection by the learned counsel for the respondent and in view of the urgency alleged by the appellant, the matter is taken up on today's board.

The present appeal under Section 7-I of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952, [herein after referred to as 'the Act'] is directed against the order dated 03.08.2021 passed by the respondent under Section 7A of the Act.

Along with the appeal, there is also an application for condonation of delay filed by the appellant.

Heard on the said application.

The impugned order was passed by the respondent on 03.08.2021. Thereafter, the appellant filed a review application under Section 7B of the Act which was rejected vide order dated 05/06.04.2022.

The limitation to file an appeal is 60 days as per rule 7(2) of the Employees' Provident Funds Appellate Tribunal (Procedure) Rules, 1997 which is extendable for a further period of 60 days as per the proviso thereunder on furnishing of sufficient cause for not preferring the appeal within the prescribed period.

In view of the order dated 10.01.2022 passed by the Hon'ble Supreme Court in Misc. Application No.21 of 2022 in Misc. Application. No.665 of 2021 in Suo Moto Writ Petition (C) No.3 of 2020, the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purpose of limitation as may be prescribed under the general or special law in respect of all judicial or quasi-judicial proceedings. Over & above this, a limitation period of 90 days from 01.03.2022 has also been granted in cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022.

In the present case, the present appeal has been filed on 16.06.2022. Thus, in view of the aforesaid judgment of the Hon'ble Supreme Court, the limitation expired on 29.05.2022 and there is a delay of 17 days in filing the present appeal.

For the reasons mentioned in the application and in order to do substantial justice between the parties, the application for condonation of delay is allowed and delay in filing the appeal is condoned.

Along with the appeal, there is also an application under Section 7-O of the Act.

The learned counsel for the appellant has submitted that the appellant was not given reasonable opportunity of representing its case and the impugned order suffers from patent illegality. He further submitted that the appellant is in financial hardship. Therefore, he prayed that pre-condition of deposit of 75% of the assessed amount may be dispensed with and the application under Section 7-O of the Act may be allowed and operation of impugned order may be stayed.

On the other hand, learned counsel for the respondent resisted the said contentions and supported the impugned order primarily on the grounds which prevailed with the respondent. Hence she argued that the said application may be dismissed.

After hearing both the sides and going through the case file carefully, I am of the considered opinion that there are arguable points in the appeal and, prima facie, there is merit in the contentions raised by the appellant.

Keeping in view the facts and circumstances of the case, it is ordered that the appellant shall deposit 60% of the amount of Rs.38,61,704/- as assessed under Section 7A of the Act with the respondent within four weeks from today. The recovery of the remaining 40% of the said amount shall remain stayed till decision of the present appeal.

It is made clear that in case, the said 60% amount is not deposited within the stipulated time, the stay order shall stand vacated automatically.

Thus, the application under Section 7-O of the Act accordingly stands disposed of.

Now to come up on 18.04.2023 for arguments in the main appeal.

Sd/-

February 02, 2023

(LAXMI NARAIN JINDAL)
Presiding Officer
CGIT -2, Mumbai