

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

APPEAL NO. CGIT- 2 / EPFA /24 /2024

M/s. Premier Builders Goa Pvt. Ltd - Appellant

V/s.

The Regional Provident Fund Commissioner-II,
EPFO, Goa. - Respondent

ORDER Below Ex-8
(Delivered on 05-11-2024)

Read application for refund of amount filed by the appellant-applicant. Perused the say given on behalf of the respondent-opponent.

Heard both the sides at length.

According to the applicant, after filing an appeal challenging the order u/s. 14-B & 7-Q of the EPF Act it was informed to the opponent, not to initiate any coercive recovery proceedings and attach the Bank account. Still the opponent issued a notice of demand dated 03.04.2024 for recovery of amount of Rs. 14,94,955/- during pendency of appeal. In fact, the opponent was informed about the non-availability of the Presiding Officer and difficulty in obtaining stay, still the opponent initiated the recovery proceedings u/s. 8-F by serving order dated 17.04.2024 directly to the Punjab National Bank during pendency of the appeal and stay application, still

surprisingly the opponent recovered the due amounting to Rs. 6,72,324/- on 19.04.2024 which is completely against the provisions of Law thus the applicant prays for refund of amount of Rs. 6,72,324/- which is illegally recovered by withdrawing the order of recovery was u/s. 8-F of the EPF Act.

The opponent resisted the application by reply. The opponent contended that, the applicant was directed to pay Rs. 8,22,631/- for damages u/s. 14-B of the EPF Act and also directed to pay Rs. 6,72,324/- for interest u/s. 7-Q of the EPF Act on 11.01.2024. The applicant challenged the orders in WP No. 1124/2024 before the High Court of Bombay Goa Bench. That Writ Petition was disposed off on 06.05.2024 by observing that, the total amount out of Rs. 14,87,970/-. The opponent has already recovered the amount of Rs. 6,72,324/- and stayed the recovery of amount of Rs. 8,22,631/- on condition that, the applicant has to deposit the said amount before the appellate Authority within four weeks from 06.05.2024. The opponent further submitted that, the two separate orders have been challenged in the appeal however the appeal against the order u/s. 7-Q is not maintainable. Lastly, the opponent urged that, the recovery of Rs. 8,22,631/- was stayed on condition to deposit the said amount within four weeks and ultimately prayed for rejection of the application.

It will not be out of place to mention here that, the present appeal has been filed on 14.09.2024 and as no Presiding Officer was appointed therefore the applicant directly approached to the High Court of Bombay at Goa in WP No. 1124/2024, in which the Hon'ble Lordships of our Bombay High Court was pleased to pass

an order on 06.05.2024. In that order it was appreciated that, the respondents have already recovered an amount of Rs. 6,72,324/- in pursuance of the order u/s. 7-Q of the EPF Act which was even otherwise not appealable. For remaining balance amount of Rs. 8,22,631/- as per order u/s. 14-B of the EPF Act. The Hon'ble Lordships were pleased to stay till the disposal of the appeal before Appellate Authority/ Provident Fund Tribunal subject to depositing this amount of Rs. 8,22,631/- within four weeks and if no such deposit is made within four weeks from today and intimation is given within four weeks, then RPF Commissioner shall be at liberty to enforce the demand. It is not the case of the applicant that, after depositing the amount of Rs. 8,22,631/- before Appellate Authority, any notice of demand was issued and the amount has been recovered by the opponent. Moreover, the fact of recovery of Rs.6,72,324/- was considered by the Hon'ble Lordships of our Bombay High Court and there was no such direction to refund of that amount to the opponent till the disposal of the appeal.

Not only this but, the notice of demand dated 03.04.2024 was well within existence at the time of arguing the matter before the High Court Bombay at Goa however there is no observation in respect of the recovery of amount of the interest by the opponent. In such circumstances, it will be unsafe to pass any order about the refund of amount of Rs. 6,72,324/- till the disposal of the appeal on merit will be against the spirit of the order passed by the High Court therefore the applicant is not entitled for refund of amount as prayed.

In the result, the application for refund of amount of Rs. 6,72,324/- is rejected.

Sd/-

Date: 05-11-2024

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