

**BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, ROUSE AVENUE,
DISTRICT COURT COMPLEX, DELHI.**

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

Miscellaneous application in D-1/01/2021

M/s Ridings Consulting Engineers India Pvt. Ltd.

Appellant

VS.

APFC, Delhi (North)

Respondent

ORDER DATED:- 26.08.2021

Present:- Shri S.P Arora and Shri Rajiv Arora, Ld. Counsel for the Appellant.
Shri S. N. Mahanta, Ld. Counsel for the Respondent.

The record has been put up today for hearing through VC on the basis of an application filed by the appellant under Rule 21 of the EPFAT Rules 1997. Copy of the petition was served on the respondent and Shri S.N. Mahanta Advocate participated in the hearing.

The contention of the appellant petitioner is that the appeal has been filed before this tribunal challenging the order of assessment made u/s 7A of the EPF and MP Act. This tribunal by order dated 12.02.2021 directed that 10% of the assessed amount be deposited as a pre condition for admission of the appeal in compliance to the provisions of section 7O of the EPF and MP Act within 3 weeks from the date of the order. Being aggrieved the appellant/establishment challenge the order before the Hon'ble High Court of Delhi in WPC No. 2990 of 2021 wherein the Hon'ble High Court by order dated 13.07.2021 reduced the pre deposit amount to Rs. 5,00,000/- with further direction for deposit of the same on or before 31.08.2021. The appellant in this Misc petition has stated that the respondent has attached its bank account and already recovered Rs. 18,50,000/-(approximately) in a recovery proceeding initiated pursuant to the order passed in the 7A proceeding. Hence, the appellant has stated that considering the loss of business in all sector on account of the Covid-19 pandemic an order should be passed by this tribunal for adjustment of Rs. 5,00,000/- from the said recovered amount towards compliance of the direction of the Hon'ble High Court and the balance be deposited with the Registrar of this tribunal in FDR. A specific prayer has also been made for de-attachment of the Bank account.

The Ld. Counsel Mr. Mahanta representing the respondent took serious objection to the submission made by the counsel for the appellant. While drawing attention of this tribunal to Para-21 and Para-22 of the order dated 13.07.2021 of the Hon'ble High Court he submitted that the Hon'ble High Court have given a clear direction that Rs. 5,00,000/- shall be deposited by the petitioner ie. the appellant before the Registrar and the said amount shall be kept in FDR fetching interest on auto renewal mode.

Similarly the Hon'ble High Court have directed that in respect of Rs. 18,50,000/- already recovered, the appellant is at liberty of approaching the CGIT for deposit of the same in an appropriate manner. Hence, Mr. Mahanta submitted that as directed by the Hon'ble High Court the appellant has to deposit Rs. 5,00,000/- at the first instance in the name of the Registrar towards the compliance of the 7O amount and thereafter his prayer with regard to Rs. 18,50,000/- may be considered. He also submitted that only Rs. 12,00,000/- has been recovered by the department in relation to the 7A proceeding held and disposed of by the respondent and not Rs. 18,50,000/- as stated by the appellant.

In reply, the Ld. Counsel for the appellant drew the attention of the tribunal to a document filed in this proceeding which is a correspondence between the appellant and the Bank which reveals that the entire 18,50,000/- has been recovered by the EPFO pursuant to the recovery proceeding. The Ld. Counsel for the respondent also conceded that the said amount ie. 18,50,000/- has been recovered in the recovery proceeding initiated against the appellant pursuant to two separate 7A orders passed against the appellant/establishment.

The order of the Hon'ble High Court is clear to the extent that 5,00,000/- shall be deposited towards compliance of the provisions of section 7O of the Act. A plain reading of the provision of section 7O shows that as a pre condition for filing the appeal 75% of the amount due from the establishment determined by an officer referred to in section 7A shall be deposited before the Tribunal. When the materials and circumstances clearly show that Rs. 18,50,000/- has been recovered as a part of the amount assessed u/s 7A of the Act, this tribunal finds no reason of rejecting the prayer for adjustment of Rs. 500,000/- from out of that recovered amount.

Hence, it is directed that the respondent i.e RPFC Delhi North shall prepare one FDR for Rs. 500,000/- in the name of the Registrar of this tribunal with the provision for auto renewal and submit the same before this tribunal. The petition filed by the appellant is allowed in part and the prayer for deposit of the balance amount recovered in form of FDR in the name of the Registrar is rejected.

It is further directed that for compliance of the above said direction the respondent shall issue direction to the Bank for the de-attachment of the account of the appellant if the same is not in respect of any other proceeding than the one challenged in this appeal. Since the Hon'ble High Court have given a date line, the RPFC Delhi North is directed to prepare the FDR and submit the same in this tribunal on or before 31st August, 2021.

Presiding officer