

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-2, MUMBAI

M/S. Supertech Solutions Limited,
Plot No.18, Indradhanu Magaldham Society
Near Eklavya College Kothrud. - APPELLANT

V/s.

Regional Provident Fund Commissioner - II
Regional Office, EPFO Pune - 1,
Cantonment Board Building, Golibar Maidan
Pune – 411 001. - RESPONDENT

ORDER

Dated:30.01.2023

**Present: Shri H.L Chheda, A.R with Shri Rajwardhan Kulkarni,
Advocate for the appellant.
Shri Vijay Ghedia for Shri Rakesh Sawant Advocate
for the respondent.**

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 10.01.2020 passed by the respondent under Section 14B 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 10.01.2020 and the appellant received the same on 28.02.2020. The limitation to file an appeal is 60 days.

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 having been filed during the aforesaid period of limitation exemption, is within limitation and the application for condonation of delay is accordingly allowed.

Also heard on the application for stay filed by the appellant along with the appeal.

As per the impugned order, the amount of penalty under Section 14B of the Act is Rs.22,77,626/-.

The learned counsel for the appellant submits that an order under Section 7Q was also passed against the appellant and the appellant has deposited substantial amount of interest and the remaining amount shall be deposited shortly.

On the application for stay of the impugned order, the learned A.R. for the appellant, inter alia, submits that the impugned order suffers from patent illegality and to buttress his contention, he referred to the grounds of appeal. He further submitted that the appellant is in extreme financial hardship and not in a position to pay the amount of penalty assessed by way of the impugned order. Thus, he argued that during pendency of the present appeal, operation of the impugned order may be stayed.

On the other hand, learned counsel for the respondent resisted the said contentions and submitted that reasoned order has been passed after affording due opportunity to the appellant and the same is legal and valid. Thus, he argued that no ground for stay is made out.

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. The contention of the appellant is that it is in financial hardship.

Keeping in view the facts and circumstances of the case, it is ordered that the appellant shall deposit 30% of the amount of Rs.22,77,626/- as assessed under Section 14B of the Act with the respondent within three weeks from today. The recovery of the remaining 70% of the said amount shall remain stayed till decision of the present appeal.

It is made clear that in case, the said 30% amount is not deposited within the stipulated time, the stay order shall stand vacated automatically.

The bank account of the appellant, if attached due to non payment of the assessed amount under Section 14B of the Act by way of the impugned order, shall be released forthwith. The respondent shall be at liberty to again attach the bank account of the appellant in case, the aforesaid 30% is not deposited within three weeks from today.

Thus, the application for stay accordingly stands disposed of.

To come up on 07.06.2023 for arguments.

Sd/-

January 30, 2023

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