

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

**APPEAL NO. CGIT- 2 / EPFA /42/2024**

M/s. Manmanagement Services. - Appellant

V/s.

The Regional Provident Fund Commissioner-I,

EPFO, Pune. - Respondent

**ORDER**

**(Delivered on 18-03-2025)**

M/s. Manmanagement Services/ appellant-applicant has challenged the legality of order dated 30.01.2024, passed u/s. 7-A of the EPF & MP Act 1952 (for-short, the “EPF Act”) and by these applications, the applicant prays waiver from pre-deposit of amount as per Section 7-O of the EPF Act and direction to the opponent to stay to the effect and operation of the order under appeal during pendency of lis.

The applicant engaged in the business of supply of personnel to the Industrial establishment, covered under the EPF Act w.e.f. 01.10.2007 as Expert services and complying with the provisions of EPF regularly. On the basis of inspection carried out by the Enforcement Officer and report based on inspection, show-cause notice dated 30.06.2022 was issued to the applicant and enquiry was initiated from 14.07.2022 for the period from April 2016 to March 2022. The representative of the applicant participated in the enquiry and after enquiry, the opponent assessed the

amount of Rs.41,18,642/- u/s. 7-A of the EPF Act by order dated 30.01.2024.

It is contended on behalf of the applicant that, he is registered contractor not employer, nor principle employer as such enquiry in respect of ABRY Scheme ought not to have conducted against him. He was not the beneficiary under the ABRY Scheme, the contribution deducted from the employees registered under the ABRY Scheme has been duly remitted. After getting confirmation about covering the employees under Scheme from EPFO, the amount of contribution deducted from salaries were duly refunded. There cannot be misappropriated of amount. The enquiry in respect of ABRY Scheme cannot be held jointly with the enquiry held u/s. 7-A of the EPF Act. Lastly the applicant urged that, he is not liable to pay amount as such direction to deposit 75% amount will cause great hardship and the order under appeal is improper and illegal.

The opponent by counter reply submitted that, the enquiry u/s. 7-A of the EPF Act has been initiated based on inspection and verification of records. After giving sufficient opportunities, the applicant failed to submit clarification and thereafter enquiry was concluded. On verification it was observed that, the establishment has deducted the employees' share of PF contribution from the salary of employees who have availed the ABRY Scheme and violated Clause 9 (VII) of ABRY guidelines issues dated 02.07.2021. As per the guidelines of the ABRY Scheme, if false information or statement or false declaration is made, then employer is treated as defaulter and liable for recovery alongwith interest and penalty. The involvement of the

establishment of the applicant in misappropriating the fund of the Central Government has sufficiently established for which Criminal Complaint under the appropriate Law has been lodged against the applicant. Lastly, the opponent submitted that, the applicant's establishment has claimed PF ER Share in ABRY beneficiaries to two-three principal employers and thereby violated the guidelines and liable to pay full amount claimed as ABRY benefits and the order has been passed in accordance with the principles of the natural justice and ultimately prayed for rejection of the application.

I have given anxious consideration to the oral submission advanced on behalf of the parties. Undisputedly the enquiry was initiated against the applicant based on report of Enforcement Officer and after giving opportunities to the applicant, the enquiry has been concluded and the order u/s. 7-A has been passed against the applicant. After considering the submissions advanced on behalf of the parties, the issue involved in the matter is in respect of ABRY Scheme and its violation by the applicant. Both the parties have raised various objections on the point of ABRY Scheme and considering the issue involved in the matter more particularly about the violation of the ABRY Scheme. In my opinion, all these points needs to be considered exhaustively and it is possible only at the time of deciding the appeal on merit, however on that basis it can be said that, the applicant has made out a prima-case for grant of interim relief. Similarly considering the other facts and circumstances of the case, in the light of pleadings of the applicant made in the appeal, in my opinion the balance of convenience lies in favour of the applicant and considering the

comparative hardship, the applicant is entitled for interim relief as prayed.

As regards the waiver, as per Section 7-O of the EPF Act, the appeal shall not be entertained by the Tribunal unless deposited with it 75% of amount as determined by the officer referred to in Section 7-A of the EPF Act. Moreover as per the proviso, the Tribunal may for reasons to be recorded in writing waive or reduce the amount to be deposited under this Section. In view of the fact and circumstances of the case that too in respect of ABRY Scheme, in my opinion instead of 75% I am directing the applicant to deposit 50% of amount assessed in the order u/s. 7-A of the EPF Act.

It is clear from the above discussion that, the applicant is entitled for stay to the effect and operation of the order under appeal and entitled for waiver of pre-deposit of amount to the extent of 25% and required to deposit 50% amount as assessed in the order under appeal.

In the result, the applications are allowed. The opponent is directed to stay the effect and operation of the order only after depositing the 50% amount as assessed in the order under appeal within a period of four weeks from the date of this order.

Date: 18-03-2025

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

