

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

APPEAL NO. CGIT- 2 / EPFA /45/2022

M/s. DNV GL AS.

- Appellant

V/s.

The Assistant Provident Fund Commissioner,

EPFO, Bandra (E) Mumbai.

- Respondent

ORDER

(Delivered on 18-03-2025)

M/s. DNV GL AS/ appellant-applicant has challenged the legality of order dated 27/12/2021 passed u/s. 14-B & 7-Q of the EPF & MP Act 1952 (for short- the “EPF Act”) and by this application seeking stay to the effect and operation of the order under appeal during pendency of lis.

The applicant's establishment is covered Under EPF Act since 1974. Initially the applicant applied for exemption to EPFO, applied for issuance of user ID and password for remittance of inspection charges, however inspite of repeated follow up, user ID and password was not issued therefore applicant couldn't remit contribution for the period from April 2012 to November 2013 and after allotment of user ID on 27/12/2013, the contribution was paid after generating EPF Challan on web portal, still the opponent issued combined summons dated 24/10/2016 u/s. 14-B & 7-Q of the EPF Act for the period from 01/12/2013 to 31/3/2014 and after enquiry the orders have been passed.

According to the applicant, they have two categories of employees namely employees covered under the provisions of EPF Act and excluded employees of EPF scheme. They have been making regular compliance, in respect of statutory covered employees and in order to start compliance in respect of exempted employees requested for separate user ID and password and code number, user name and password, account group number was allotted on 27/12/2013 for compliance and thereafter contribution during April 2012 to November 2013 was remitted as such the delay cause in remitting contribution is intentional or deliberate as such the orders under appeal are bad in law, unjust and illegal.

The respondent-opponent has not filed any reply to this application nor counter reply before the Tribunal.

I have heard Mr. Chheda representative for the applicant and Mr. Rattesar advocate for the opponent.

After considering oral submissions of the parties in the light of appeal memo and order under appeal it appears that, the main issue regarding non-generation of ID & password raised on behalf of the applicant during enquiry, therefore there was delay in remitting the contribution whereas it has been mentioned in the order under appeal that, the applicant was informed to remit the contribution by Demand Draft and except this, there is no discussion in the order other than the decisions of Supreme Court. Not only this but in absence of reply to the application or main appeal, there seems no positive stand taken by the respondent in respect of various points raised by the applicant in appeal memo and in absence of that, the points raised by the applicant needs to be considered exhaustively while deciding the appeal on merit.

There are arguable points and can be dealt only after counter reply available on record therefore it can be safely said that, the applicant has made out a prima facie case considering the other facts and circumstances of the case more particularly the unrebutted pleadings 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.

True it is that order u/s. 7-Q of EPF Act is not appealable however the composite order based on composite summons is tenable under law still, I am directing the applicant to deposit the amount of Rs.03,81,227/- towards interest with the opponent and considering the amount involved about damages, it will be just to deposit 20% of total amount assessed in the order under appeal.

In the result, the application is allowed. The opponent is directed to stay the effect and operation of the order under appeal only on depositing the amount of Interest assessed in the order u/s.7-Q of the EPF Act and also to deposit 20% of total amount assessed in the order under appeal towards damages within a period of six weeks from the date of this order.

Sd/-

Date: 18-03-2025

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