

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

APPEAL NO. CGIT- 2 / EPFA 47 /2022

M/s. Jagruti Sugar & Allied Industries Ltd. - Appellant

V/s.

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

ORDER
(Delivered on 30-12-2024)

M/s. Jagruti Sugar & Allied Industries Ltd. has challenged the legality of separate order dated 27.12.2021 passed u/s. 14-B & 7-Q of the EPF & MP Act 1952, (for-short, "the said Act") by RPFC-II in the present appeal and by this application prays for waiver from pre-deposit u/s. 7-O of the said Act.

2. The appellant contends that, he had participated in Employees Enrolment Campaign Scheme 1917 initiated by the respondent and for that he was required to upload on EPFO Website declaration for membership of employees, who were entitled to become members of fund between 01.04.2009 to 31.12.2016, however employees were not enrolled. As per that scheme, incentives were provided and employer was required to remit employers share contribution and interest and administrative charges were not required to be paid, only Rs.1/- per year be deposited towards damages in respect of employees whose declaration is made. The applicant further contends that, he

made a payment of Rs.46,51,204/- towards employer contribution and Rs.14,29,293/- towards interest and penalty of Rs.1/- per annum as per scheme, still the respondent has demanded additional damages of Rs.26,11,128/- and Rs.13,66,955/- towards interest. These orders were passed without deciding whether he was willful defaulter, non mens-rea in action thus prayed for waiver from pre-deposit alongwith stay to the recovery of amount during pendency of lis.

3. The respondent resisted the application by separate reply and denied all the contentions of the applicant in totality. The respondent contends that, there is no provision to challenge the order passed u/s. 7-Q of the said Act. The stay should be granted only on satisfying 30% amount due demanded as per the said Act and ultimately prayed for rejection of the application.

4. It will not be out of place to mention here that, the order under challenge though passed on the same date, it is not a composite order. There cannot be any dispute that, the appeal against the order u/s. 7-Q is not maintainable therefore there is no question of pre-deposit of amount as per Section 7-O of the said Act as such the appellant is directed to deposit the amount of Rs.14,29,293/- towards interest if not paid earlier.

Furthermore considering the issue involved in the appeal, in my opinion there are arguable points on merit and considering the aspect of the scheme more particularly non enrolment of the employees in the Employees Enrolment

Campaign Scheme 2017 and damages as required Rs.1/- per year in respect whose declaration is made, to my mind the applicant has made out a prima-facie case at this stage, the balance of convenience lies in favor of the applicant and considering the comparative hardship, the appellant is entitled for stay to the recovery of amount as prayed.

As regards, the waiver from pre-deposit of amount in respect of order of damages, Needless to say that, Sec. 7-O of the said Act is not applicable in respect of appeal u/s. 14-B of the said Act, therefore there is no question of any waiver in respect of amount of damages.

In the result, the application is allowed. The applicant is entitled for stay to the recovery of amount in respect of damages and interest only on depositing the amount of interest of Rs. 14,29,293/- within a period of four weeks from the date of this order if not paid earlier.

Sd/-

Date: 30-12-2024

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