

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

**APPEAL NO. CGIT- 2 / EPFA /64 /2023**

M/s. Squareone Technologies Pvt. Ltd.

( Now M/s. Squareone Insights Pvt. Ltd.) - Appellant

V/s.

The Regional Provident Fund Commissioner-II,

EPFO, Vashi. - Respondent

**ORDER**

**(Delivered on 11-03-2025)**

M/s. Squareone Technologies Pvt. Ltd./appellant-applicant has challenged the legality and propriety of order dated 22.12.2022, passed u/s. 7-A & order dated 28.02.2023 passed u/s. 7-B of the EPF & MP Act 1952 and by these applications, the applicant prays waiver from pre-deposit as required u/s. 7-O of the EPF Act and for stay to the effect and operation of the order under appeal during pendency of lis.

The appellant is a company incorporated under the Companies Act, engaged in the business of providing I.T. services and consultancy services to the commercial customers etc., covered under the EPF Act and regularly complying the provisions of the Act and Scheme. The name of the company got change from M/s. Squareone Technologies Pvt. Ltd., to M/s. Squareone Insights Pvt. Ltd. On the visit of Area Enforcement Office dated 12.04.2019, the enquiry was initiated for the period from 01.10.2018

to 31.03.2019 and order came to be passed on 22.12.2022. The applicant added that, during relevant period the payment was delayed due to cash flow deficiency and the representations made were not considered properly. The opponent has not given proper and justifiable reasoning about the assessment of the dues as such the order under appeal is contrary to Law and against the principles of natural Justice therefore illegal. The applicant further added that, the P.F. dues of employee for the period from October 2018 till March 2019 amounting to Rs.07,21,199/- have been paid however without verifying the correct and factual position of number of employees mentioned in the challan and the appellant is not liable to pay any amount much less Rs.10,21,009/- determined as per order dated 22.12.2022, therefore the applicant is not liable to deposit the 75% amount and requested for waiver of amount as required u/s. 7-O of the Act.

The opponent without filing separate reply to the applications for waiver and stay filed a counter reply. The opponent contended that, the applicant failed to remit P.F. dues from October 2018 to March 2019 for all eligible employees hence proceeding u/s. 7-A of the EPF Act is initiated based on summons dated 15.05.2019. The enquiry was continued almost 3 years, the ample opportunity were given to the applicant. The address of the applicant have been changed but no official correspondence was made. The opponent has not produced any record during enquiry and on the basis of material available on record, the order came to be passed in accordance with the Law. Similarly, as per Section 7-O of the EPF Act, it is mandatory for the applicant to deposit 75% amount at the time of filing appeal and ultimately prayed for rejection

of the applications unless proper compliance of Section 7-O of the EPF Act..

I have heard Mr. Gurav advocate for the applicant & Mr. Rattesar advocate for the opponent.

Undisputedly for the period from October 2018 to March 2019, the Authority has determined the amount u/s. 7-A of the EPF Act. Mr. Gurav learned counsel appearing on behalf of the applicant pointed out on the basis of documents placed before the Tribunal that, in October 2018, there were 42 employees and their contribution were made, however in February/March 2019, the strength of the employees was reduced, therefore the contribution the P.F. was deposited less. Similarly, during subsequent months also, some time the number of employees were increased as well as decreased also, however this aspect was not considered while passing the order under appeal. He also contended that, the delay in making the payment was of 6 months only and the same was also due to financial problem.

From the above discussed points, in my opinion all these points required to be considered exhaustively while deciding the appeal on merit and on that basis it can be safely said that, the applicant has made out a prima-case at the stage. Furthermore, considering the facts and circumstances of the case in my opinion, the balance of convenience lies in favour of the applicant and considering the comparative hardship the applicant is entitled for stay to the effect and operation of the order under appeal during pendency of lis.

As regards the waiver from pre-deposit during October 2018 to March 2019, the applicant has deposited Rs.07,21,199/- and the

Authority has determined the amount of Rs.10,21,009/- in order u/s. 7-A of the EPF Act. Needless to say that, as per Section 7-O of the EPF Act, appeal shall not be entertained by the Tribunal unless employer has deposited with it 75% amount due from him as determined by an officer and as per proviso by recording reasons the Court can waive or reduce the amount to be deposited under this Section. True it is that, initially the Authority has determined the amount of Rs.17,42,208/- and thereafter lastly shown the outstanding dues as Rs.10,21,009/-. It goes to show that, the applicant has already deposited the amount of Rs.07,21,199/-, still considering the reasons instead of 75%, I am directing the applicant to deposit 25% of Rs.10,21,009/- towards compliance of the Section 7-O of the EPF Act.

In the result, the applications are allowed. The opponent is directed to stay the effect and operation of the order under appeal till the disposal of the appeal on merit, only on depositing 25% of Rs.10,21,009/- determined in the order u/s. 7-A of the EPF Act with the opponent within a period of 4 weeks from the date of this order.

Date: 11-03-2025

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