

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

**APPEAL NO. CGIT- 2 / EPFA /71 /2024**

M/s. Sachin Enterprises.

- Appellant

V/s.

The Assistant Provident Fund Commissioner,

EPFO, Pune.

- Respondent

**ORDER**

**(Delivered on 19-11-2024)**

This is an application for condonation of delay in filing the appeal.

2. According to the applicant the order dated 18.10.2022, in respect of damages and interest has been challenged in the present appeal, which has been filed on 22.05.2024. Initially he came to know that if 50% amount is paid, then the opponent will closed the matter, accordingly he paid the amount of Rs. 09,38,000/-. He was not aware about the process of appeal to be filed against the order passed by the Authority, not received proper advice regarding filing of appeal, then in April 2024 after contacting the counsel, he came to know about the filing of appeal accordingly the appeal has been filed on 22.05.2024. There is delay caused in filing an appeal, the same is inordinate, not deliberate nor intentional, thus prayed for condonation of delay in filing an appeal.

3. The opponent submitted that, the Authority has passed an order in respect of damages and interest on 18.10.2022, the applicant received the copy of order on 18.10.2022, not filed an appeal within time limit of 60 days as such there is delay of more than 60 days and there is delay of more than one year i.e., 120 days also. The applicant slept over his rights in respect of challenging the order from 18.12.2024 till 22.05.2024, not come before the Tribunal with an honest intention and trying to mislead the court, therefore not entitled for condonation of delay and ultimately prayed for rejection of the application.

4. I have heard Mr. D.H. Patil Advocate for the applicant and Mrs. Sawant Advocate for the opponent.

5. There appears no dispute that, the applicant has challenged the order in respect of damages and interest dated 18.10.2022 in an appeal, which has been filed on 22.05.2024. Needless to say that, as per Sec. 7-I (2), every appeal under sub-Sec.- (1) shall be filed in such form and manner, within such time and be accompanied by such fees as may be prescribed. As per Rule 7-(2) of the 'Employees' Provident Fund Appellate Tribunal (Procedure) rules 1997 any person aggrieved by the notification issued by the Central Government or **any Authority under the Act may within 60 days from the date of issue of notification/order prefer an appeal to the Tribunal** provided that, the Tribunal may if it is satisfied that, the Appellate was prevented by sufficient cause from preferring an appeal within the prescribed period, **extend the said period by further period of 60 days.**

6. It is clear from the above provisions of the 'Employees' Provident Fund Act and Rules, the delay can be condoned only upto 120 days from the date of passing of an order.

7. In the decisions of **Orissa High Court in Lotus Chemicals Pvt. Ltd. v/s. Assistant Provident Fund Commissioner LAWS (ORI-2018-3-41)** relied by the opponent, it has been specifically mentioned that,

"The procedure for filing of appeal has been provided under the provisions of Rule 7 of the 'Employees' Provident Fund Appellate Tribunal (Procedure) Rules, 1997, wherein it has been provided under regulation 7(2) that, the appeal may be filed within 60 days from the date of issuance of notification/order, provided that the Tribunal may, if it is satisfied that the appellant was prevented the sufficient cause from preferring appeal within the prescribed period, may extend the said period by a further period of 60 days, meaning thereby the appeal is to be filed before the Appellate Tribunal within a maximum period of 120 days subject to its condonation and beyond that it cannot be extended. It is settled that if any legislation has been provided, it has to be followed in its strict sense if there is specific time period framed in the legislation to entertain an appeal, the Authorities concerned are not supposed to extend that period

by assuming the power conferred under the Limitation Act, 1963.”

8. In the case in hand, undisputedly the appeal has been preferred after about one year five months and six days from the date of passing of an order, there is no satisfactory explanation for not filing the appeal within time and even otherwise also the delay in filing the appeal was more than 120 days from the date of passing of an order therefore the applicant is certainly not entitled for condonation of delay in filing an appeal.”

In the result, the application is rejected. The applicant is not entitled for condonation of delay in filing an appeal

Sd/-

Date: 19-11-2024

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

