

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

APPEAL NO. CGIT- 2 / EPFA 72 /2020

M/s. Rewachand Bhojwani Academy

- Appellant

V/s.

The Regional Provident Fund Commissioner,

EPFO, Pune.

- Respondent

ORDER

(Delivered on 08-04-2025)

Read application filed on behalf of the appellant/applicant.
Perused the reply filed on behalf of the respondent/opponent.
Heard Mr. Chheda learned representative for the applicant and
Mr. M. N. Rajput learned counsel for the opponent.

It is contended on behalf of the applicant that, during pendency of appeal, the opponent has issued prohibitory order dated 07.06.2022 to the Banker of the applicant and marked lien for the entire amount assessed in the order under appeal. The applicant by letter dated 23.06.2023 requested the opponent to release the amount mentioned in the prohibitory order as it amounts to encroaching the jurisdiction of the Tribunal, still with utter disregard to the provisions of law, the opponent issued prohibitory order to the banker directing to lien for an amount of Rs.19,77,239/-, thus prays for direction to the opponent to release entire amount which is under lien by setting aside the prohibitory order.

As against this, it is contended on behalf of the opponent that, though the order passed u/s. 7-A of the EPF Act is challenged

in appeal, however there is no stay from the Tribunal to the order under appeal, thus for the recovery of amount assessed in the order, the prohibitory order dated 07.06.2022 was sent to the Branch Manager, Indian Bank as per Sec. 8-F of the EPF Act. It is further contended that, there is no compliance of the provisions of the Sec.7-O of the EPF Act. Non availability of the Presiding Officer at CGIT-Mumbai does not come under the purview of EPF Act and delay in deposit of contribution amounts to criminal breach of trust making liable for further action. Lastly, it is urged that, the applicant's establishment is habitual defaulter and not taken any steps to get the order thus there is no illegality in passing prohibitory order and ultimately requested for rejection of the application.

Undisputedly the applicant has challenged the order dated 31.01.2020 passed u/s. 7-A of the EPF Act before this Tribunal on 13.03.2020 i.e., within prescribed limitation of 60 days from the date of passing of order. It reveals from the order sheets that, in January 2022, my Learned Predecessor was pleased to allow the request made by the learned representative of the applicant in respect of calling original record and that prayer was allowed and since then the matter was adjourned time to time for final arguments. Similarly the applicant is seeking setting aside the prohibitory order dated 07.06.2022 by an application, which has been filed on 19.08.2024 i.e., after about more than two years from the date of passing of prohibitory order.

True it is that, the hearing of stay application as well as application for waiver has been delayed due to non availability of the Presiding Officer CGIT-2 Mumbai, therefore I do not think that,

there is any lapses on the part of the applicant for non-insisting hearing on stay application nor at the same time I do not find any illegality in passing prohibitory order such as lien on the Bank Account in absence of any stay order from the Court. Under such circumstances, considering the request made on behalf of the applicant without deciding application for stay and waiver, it will be just to direct the opponent to withdraw prohibitory order dated 17.09.2022 in respect of lien on Bank Account of the applicant only on depositing the amount of 50% of assessed amount with the opponent.

In the result, the application is allowed. The opponent is hereby directed to withdraw prohibitory order dated 17.06.2022 in respect of lien on Bank Account of the applicant only on depositing the amount of 50% assessed amount in the order under appeal with the opponent.

Sd/-

Date: 08-04-2025

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