



सत्यमेव जयते

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM**

Present: Shri.V.Vijaya Kumar, B.Sc., LL.M., Presiding Officer.

(Wednesday the, 23rd day of March 2022)

APPEAL No. 80/2021 & 81/2021

Appellants

1. Pirmed Estate
M/s Peermade Tea Co. Ltd.,
Peermade,
Idukki – 685 053
2. Lone Tree Estate
M/s Peermade Tea Co. Ltd.,
Peermade,
Idukki – 685 053

By M/s. Joseph & Kuriyan

Respondent

The Regional PF Commissioner
EPFO, Sub Regional Office,
Post office Road, Thirunakkara
Kottayam – 686 001

By Adv. Joy Thattil Ittoop

This case coming up for final hearing on 23.03.2022 and this Tribunal-cum-Labour Court on same day passed the following:

ORDER

Appeal No. 80/2021 is filed from order No. KR/KTM/111/E-Court Dy No.1/2012/Enf.1(3)/2021/154 dated 12.04.2021

assessing regular dues for the period from 01/2000 – 07/2000. Total dues assessed is Rs. 45,80,768/-(Rupees forty five lakh eighty thousand seven hundred and sixty eight only).

Appeal No. 81/2021 is filed from Order No. KR/KTM/112/E-Court Dy. No. 42/2018/Enf. 1(3)/2021/305 dated 20.04.2021 assessing dues under Sec 7A for the period from Jan 2000 – Oct2000. Total dues assessed is Rs. 78,36,709/- (Rupees seventy eight lakh thirty six thousand seven hundred and nine only)

The appellant estates belong to the same management. Hence both the appeals are taken together for admission. Adv. Sri. Joy Thattil Ittoop takes notice on behalf of the respondent.

The learned Counsel for the respondent filed a preliminary objection stating that the appeal is barred by limitation and therefore the same cannot be admitted. According to him, the appeal ought to have been filed within 60 days of receipt of the impugned order as per Rule 7(2) of the Tribunal (Procedure) Rules 1997. Since the appeal is filed beyond 60 days, the appeal cannot be admitted. According to the learned Counsel for the appellant, in view of the directions of the Hon'ble Supreme Court in *Suo Motu W.P.(C) No.3/2020* and further orders dated 27.04.2021 and

23.09.2021, the limitation is extended by the Hon'ble Supreme Court and hence there is no delay in filing the appeal. In view of the directions of the Hon'ble Supreme Court, the delay in filing the appeal is condoned.

The learned Counsel for the appellant submitted that the assessment of dues was not done in a proper way and the respondent authority failed to consider that the appellant establishment is closed due to agitations by the workers and their trade unions. According to the learned Counsel for the respondent, the assessment is done only for the period when salary is paid. It is further seen that the appellant establishment failed to produce any documents including the details of wages paid to the employees and therefore the respondent authority was constrained to rely on the wage slips and list of employees produced before the Deputy Labour Commissioner as best evidence for assessing the dues. The learned Counsel for the appellant also pleaded that the appellant establishment is facing financial constraints due to the closure of the appellant establishment. He also produced the wage rates for the quarter January-March 2001 issued by the Association of Planters of Kerala. According to the learned Counsel, the wage was fixed as

75.10 for the period and Rs. 73.78 for the previous quarter. The Enforcement Officer calculated the minimum wages as Rs.200/- while calculating the contributions. It was upto the appellants to produce the relevant documents before the respondent authority. Having failed to do so the appellant cannot content that assessment is not proper.

The appellant is liable to remit 75% of the assessed dues under Sec 70 of the Act for maintaining the appeal. However considering the pleadings of the learned Counsel of the appellant, the pre-deposit under Sec 70 is reduced to 30% of the assessed dues. The appellant shall remit 30% of the assessed dues with the respondent within a period of 2 months from today and produce the proof of remittance on or before the next day of posting. Subject to above, the appeal is admitted and the impugned order is stayed and the respondent is restrained from taking any coercive action for recovery of the assessed dues as per the impugned orders.

Adjourned and posted to 25.05.2022 for written statement.

Sd/-
(V.Vijaya Kumar)
Presiding Officer