

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

Date: 09-03-2026

Present: SUSHIL KUMAR-II,
PRESIDING OFFICER

Appeal No.81/2019
(Old No.72(7)14)

BETWEEN

M/s. Wonderla Holidays Ltd,
Pallikkara,
Kumarapuram P.O
Kochi-683 565. : 1st Party/Appellant

AND

The Regional Provident Fund Commissioner
Employees Provident Fund Organization,
36/685A, Bhavishyanidhi Bhavan,
Kaloor, Kochi – 682017 : II Party/Respondent

Appearance:

For the Appellant : Mr. V.Santharam, Advocate
For the Respondent : Mr.Sanjeev Kumar K.Gopal, Advocate

The present appeal has been filed by the Appellant against the order of the Regional PF Commissioner, Kochi No. KR/KC/15728/Enf 1(2)/2013/9624 dated 21.10.2013 u/s.7A(1) of the EPF & Miscellaneous Provisions Act, 1952.

2. The Appellant is an amusement park situated at Pallikkara, Ernakulam known as Veegaland formerly owned by the Veega Holidays & Parks Ltd and stands amalgamated as of now to the Wonderla Holidays Pvt Ltd using the DPF registration number KR/15728. It was also allotted a sub code number KR/ 15728-A to remit EPF in respect of employees engaged through the contractors.

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There are a few restaurants functioning within the premises of Veegaland. The employees working in the restaurants, if eligible, have to get EPF benefits. During the year 2009 the Appellant vide its letter dated 21/12/2009, requested the Enforcement Officer, EPF Organisation that three contractors named Shri Udhaya Sankar, Shri C.P. Suhain and Mrs. Annapoorni Sreenivasan are running restaurants in their premises for the last couple of years and the Veegaland collects remuneration for the same. It was clarified in the letter that all the contractors are not working exclusively for Veegaland. They are having a lot of other sales outlets other than in Veegaland and they are free to undertake any service to other restaurants and social functions. Since they are experienced in catering service, the Veegaland appointed them in its restaurants for catering services. The Veegaland supervises the appointment of staff, payment of salary, purchase of materials, sales etc in the restaurant done by the contractors, it is made clear in the letter requesting to allot the contractors separate EPF code number for compliance under the EPR Act. According to the employer, in the agreement executed between the Contractors and the employer it is clearly specified that all statutory requirements are to be met by contractors and the Appellant is supervising the same. During the year 2010, the Appellant submitted a letter stating that they have engaged three caterers, viz. M/s Vijaya Caterers, M/s Salkara, the Ethnic Kitchen, for the catering service in the Amusement Park, requesting to provide separate PF code numbers for the employees

engaged by the caterers and also assuring that the remittance of Provident Fund for the employees employed by them for running the restaurants at the Park. Eventually, a Sub Code No.KR/15728-A was allotted with effect from 01/04/2007 to the Managing Director, M/s Veega Holidays & Parks Limited, vide letter dated 03/05/2010 for enrolling the contract employees working in the three canteens considering that the canteens of the establishment are functioning in the premises of the Amusement Park and they are entrusted to the Contractors. It was also clarified to the employer that the allotment of separate sub-code number to the establishment was purely for the sake of their administrative convenience and it will neither affect the date of original coverage of their establishment nor entail any ground for taking it as a separate entity. According to the Appellant, the employees working in the premises of Veegaland under the contractors are not employees of the Appellant. The independent restaurants in Appellant premises stand on the same footing as independent restaurants exist in railway stations. The restaurant workers are covered under independent code numbers of restaurant owners. M/s.Vijaya Caterers workers are not allotted with independent code numbers and other caterers or restaurant owners are allotted with independent code numbers. Therefore, the workers employed by the contractors cannot be considered as workers of the Appellant because the contract workers are performing the work on the basis of some specific terms in the contracts executed between

the Appellant and contractors. Thus, the impugned order passed by the Respondent is liable to be set aside.

3. In the reply, the Respondent submitted that the workers employed in the restaurants within the premises of appellant establishment are employees of the appellant covered under EPF Code Number KR/ 15728 for the purpose of EPF benefits and the establishment, as the Principal Employer, is statutorily liable to ensure that eligible EPF are remitted in respect of these employees. Further, if any shortage is found that any of the employees engaged through the contractors running restaurants in the premise of establishment in enrolling any eligible employee to EPF or in remitting their eligible EPF, the appellant will have to make good the shortage, failing which the appellant shall be subject to all penal provisions applicable, in addition to recovery of the due amount so assessed by the Respondent. The learned counsel for the Respondent submitted that the issue in this appeal is squarely covered by the decision of the Hon'ble Supreme Court in Royal Talkies, Hyderabad Vs. ESIC (1978) SCC (4) 204. All the employees engaged through contractor are indeed employees of the Appellant and being principal employer, it has to ensure all such employees are getting EPF benefits.

4. Heard the learned counsel appearing on behalf of the either side and perused the records. From the records, it is seen that the contract entered into between the Appellant and contractors reveal ~~the fact that employer is having absolute control on the functioning~~

of restaurants which includes supervision, checking food quality, quantity of food served, fixing of menu and its selling price etc. The employees of restaurants are found to abide the rules and regulations of the Appellant. It is alleged by the Respondent that the workers employed in the restaurants within the premises of appellant establishment are employees of the appellant covered under EPF Code Number KR/ 15728 for the purpose of EPF benefits and the establishment, as the Principal Employer, is statutorily liable to ensure that eligible EPF contribution are remitted in respect of these employees. The Appellant has not chosen to produce any contra evidence to show that EPF code number KR/15728 is exclusively used for only their employees and not the contractor or contract employees. Para 30 of EPF Scheme makes it clear that the principal employer is responsible to remit the contribution in respect of contract employees also. Sec 8A of the Act empowers the principal employer to remit the contribution in respect of contract employees and recover the same from the contract amount. Hence, the appellant cannot escape the liability in respect of provident fund contribution of employees engaged through contractors. The Hon'ble Supreme Court in the case of Royal Talkies Vs. ESIC (1978) SCC (4) 204 held that "it is enough if the employee does some work which is ancillary, incidental or has relevance to the link with the object of the establishment, surely an amenity or facility for the customers who frequent the establishment has connection with the work of the establishment." Further, the Hon'ble High Court of Kerala


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in its judgement in OP No.13193 of 2003 Dr.A.V.Joseph, Director, Medical Trust Vs, APFC 2009 (4) LLJ 564 in a similar facts of the case concluded that facility of providing canteen in the Appellant establishment is an amenity for the persons visiting establishment. Therefore, in view of the above discussion, in my view, there is no infirmity in the impugned order passed by the Respondent authorities.

ORDER

For the aforesaid reasons, the appeal filed by the Appellant is liable for dismissal. The appeal is dismissed accordingly.

Place : EARNAKULAM
Date : 09.03.2026


(SUSHIL KUMAR-II)
PRESIDING OFFICER

