

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

APPEAL NO. CGIT- 2 / EPFA 82 /2022

M/s. Placer Pharma

- Appellant

V/s.

The Regional Provident Fund Commissioner,

EPFO, Bandra (E) Mumbai.

- Respondent

ORDER

(Delivered on 07-04-2025)

M/s. Placer Pharma/ applicant has challenged the legality of orders dated 15.09.2022, passed u/s. 14-B & 7-Q of the EPF & MP Act 1952, (for short, 'the EPF Act') by RPFC, Bandra/opponent and by this application prays for stay to the effect and operation of the orders under appeal during pendency of lis.

2. The applicant engaged in business of manufacturing and trading in various kinds of pharmaceutical products, covered under the EPF since 10.09.1997. Initially the opponent issued combined summons dated 27.06.2017 regarding damages and interest. The applicant replied commonly to the summons and thereafter orders came to be issued u/s. 14-B & 7-Q of the EPF Act. The applicant submits that, while passing the orders mitigating circumstances were not considered, while conducting enquiry violated the prescribed procedure and disregarded the principles of quasi judicial in the enquiry and not followed the rules of natural justice. While passing the order in respect of damages, financial constraints were not considered and without using discretion, leveled maximum damages. The orders under appeals are not

reasoned, there is no application of mind as such the orders under appeal are ex-facie, illegal and bad in law.

3. The opponent resisted the application by reply. The opponent contended that, the order passed u/s. 7-Q of the EPF Act is not maintainable as such the applicant has to deposit the entire amount assessed in the order u/s. 7-Q of the EPF Act. The appeal filed by the applicant is baseless and non-sustainable. On filing of appeal, the applicant has to deposit 75% of the amount due as provided u/s. 7-O of the EPF Act and the order in respect of damages be kept in abeyance only on satisfying 30% due as per order in respect of damages and ultimately requested for dismissal of the application.

4. I have heard Mr. Chheda representative for the applicant and Mr. M.N. Rajput advocate for the opponent.

5. Undisputedly for the period from 04/2012 to 12/2013, show cause notice/summons dated 27.06.2017 was issued to the applicant for damages and on that basis enquiry was initiated against the applicant for damages and interest. In the enquiry Mr. Prakash Shinde HR Adm. Officer and Mr. Daptari advocate on behalf of the applicant. It reveals from the copies of orders that on 07.12.2017, the request was made on behalf of the applicant by letter in respect of verification of records, however except direction to submit Bank statement and challans there is no mention in the order about the verification of record.

6. Mr. Chheda learned representative for the applicant strongly contended that, in case of strength of employees the RPFC is competent to pass the order. In case of 250 employee - APFC, 250 - 999 RPFC-II and 1000 and above RPFC-I as such the order

under appeal passed by RPFC-II is without authority therefore illegal. This aspects needs to be considered exhaustively while deciding the appeal on merit.

7. It has stated in the order that, the applicant failed to submit any clarification or submission only. In such circumstances, the orders under appeals needs to be considered in the light of principles of natural justice coupled with the various decisions of the superior court, as such it can be safely said that, the applicant has made out a prima facie case, considering the points raised on behalf of the applicant, in my opinion the balance of convenience lies in favour of the applicant and considering the comparative hardship, the applicant is certainly entitled for stay to the effect and operation of order under appeal during pendency of lis.

In the result, the application is allowed. The opponent is directed to stay the effect and operation of the order under appeal till the disposal of appeal on merit, only on depositing the amount of Rs.8,42,445/- determined/assessed in the order u/s. 7-Q of the EPF Act.

Sd/-

Date: 07-04-2025

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