

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

APPEAL NO. CGIT- 2 / EPFA 89 /2024

M/s. Riddhi Corporate Services Pvt. Ltd. - Appellant

V/s.

The Regional Provident Fund Commissioner-I,
EPFO, Pune. - Respondent

ORDER

(Delivered on 03-12-2024)

M/s. Riddhi Corporate Services Pvt. Ltd. / appellant-applicant has challenged the legality of order dated 25.04.2024, passed u/s. 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, (for-short "the EPF Act") and by these applications, the applicant prays for waiver from pre-deposit of amount as per Sec. 7-O of the EPF Act and also for stay to the effect and operation of the order under appeal during pendency of lis.

2. The applicant is in business of providing expert services to various clients and its establishment is covered under the EPF Act since 20.03.2016 and complying the provisions regularly and remitting PF Contributions in accordance with the contract of employment entered with the employees employed. The opponent issued summons dated 11.08.2022 for enquiry u/s. 7-A (1) (b) of EPF Act however ignoring the reasons submitted by them and wrongly considering the various allowances as basic wages passed illegal order

that too in utter disregard to the provisions and procedures of Law and assessed the PF dues of Rs.57,16,961/-. The applicant added that, during 02/2018 to 06/2022 total dues were Rs.03,78,27,447/- out of that Rs. 03,21,10,486/- were paid and residual dues are Rs.57,16,961/- and considering this aspect requested for waiver from depositing 75% as required u/s. 7-O of the EPF Act.

3. The opponent resisted the applications by separated reply. The opponent contended that, the amount has been assessed as per Rules, the application for stay is baseless & non-sustainable. The applicant has to deposit 75% of amount as per Sec. 7-O of the EPF Act and unless and until the same is deposited the applications filed by the applicant are liable to be rejected.

4. I have heard Mr. Chheda Representative for the applicant & Mr. M.N. Rajput Advocate for the opponent. Peruse the copy of order under appeal.

5. After careful scanning the oral submissions advanced on behalf of the parties in the light of their respective pleadings more particularly the copy of order under appeal it reveals that, while passing the order under appeal the Authority has considered the various allowances such as HRA, Bonus, Leave with wages, City Compensatory Allowances etc., however it is observed that, the PF Contributions have been remitted only on the Basic and Dearness Allowance and thereby the applicant defaulted remittance of PF Contributions. Similarly, the applicant has come up with the specific case that, they are remitting the PF

Contributions in accordance with the contract of employment entered with the employees employed in the establishment. It means the allowances paid to the employees are according to their contract of employment and may not necessary common to all. In fact, this aspect needs to be considered exhaustively and only possible at the time of deciding appeal on merit. In such circumstances it can be safely said that, the applicant has made out a prima-facie case at the stage. Furthermore considering the other facts and circumstances of the case, the balance of convenience lies in favor of the applicant and in the light of irreparable loss, the applicant is entitled for stay to the order under appeal till the disposal of the appeal on merit.

6. As regards, the pre-deposit of amount as per Sec. 7-O, it is contended on behalf of the applicant that, the total dues were Rs.03,78,27,447/- and out of that he paid Rs.03,21,10,486/- and only residual dues out of Rs.57,16,961/- however the order under appeal is only in respect of Rs.57,16,961/-.

7. As per the Sec. 7-O of the EPF Act, no appeal shall be entertained by the Tribunal unless he has deposited 75% amount due from employer determined by an officer referred to in sub-Sec.(1) and in the instant case, the Authority has determined the amount of Rs.57,16,961/- therefore, the applicant has to be deposited the amount for entertaining these appeals and considering the other facts and circumstances of the case, instead of 75% of amount,

I am directing the applicant to deposit 40% amount as pre-deposit as per Sec. 7-O of the EPF Act.

In the result, the applications are allowed. The applicant is entitled for stay to the effect and operation of the order under appeal i.e., order dated 25.04.2024 during pendency of lis only on depositing 40% of total assessed amount u/s. 7-A of the EPF Act within the period of six weeks from the date of this order.

Sd/-

Date: 03-12-2024

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