

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

APPEAL NO. CGIT- 2 / EPFA 96 /2024

M/s. Intelstay Hotels Pvt. Ltd. - Appellant

V/s.

The Regional Provident Fund Commissioner-II & Anr.,
EPFO, Kandiwali (W). - Respondents

ORDER

(Delivered on 25-02-2025)

Read application for condonation of delay in filing the appeal. Perused the say given on behalf of the respondent/opponent.

Heard both the parties.

It reveals that, the appellant/applicant has challenged the legality of order dated 30.09.2022 passed u/s. 14-B & 7-Q of the EPF & MP Act 1952, in the present appeal, which has been filed on 09.07.2024, i.e., after prescribed period of limitation of 60 days.

It is submitted on behalf of the applicant that, on the basis of wrong advice, the appellant has filed an appeal before EPO II, no action was taken by EPO nor informed about the wrong filing of appeal. After proper advice the appeal filed before EPO was withdrawn by letter dated 10.04.2024 and then the present appeal has been filed on 09.07.2024. The delay caused is due to filing of appeal

before wrong forum and the same is unintentional thus prayed for condonation of delay in filing an appeal.

The opponent resisted the application by say. The opponent contended that, the delay in filing the appeal is more than 120 days, this Court has no jurisdiction to condone the delay after 120 days and ultimately requested for rejection of the application.

Admittedly, the present appeal has been filed on 09.07.2024 challenging the order dated 30.09.2022, however it reveals from the copy of documents available on record that, initially the applicant preferred before EPO on 30.01.2023, thus the appeal was pending without any order and the same was withdrawn by letter dated 10.04.2024, it means the appeal was pending before the wrong authority during 30.01.2023 to 10.04.2024 and immediately after withdrawal of appeal, the present appeal has been filed on 09.07.2024.

The fact of filling appeal before the wrong authority is supported by the documents available on record and considering the period of filing present appeal after withdrawal of appeal from the wrong authority is certainly within 120 days. True it is that, the same is not within 60 days from the prescribed period of limitation and it is certainly within 120 days i.e., extended period of limitation. The reason mentioned for delay in filing appeal certainly seems to be bonafide therefore the applicant is certainly entitled for condonation of delay in filing an appeal.

I have gone through the decision of our **Bombay High Court** in **Trio – Fab (India) Pvt. Ltd. v/s. RPFC-II**, relied on behalf of the opponent in that matter, the petitioner approached to the High Court by way of Writ Petition when his appeal was time barred. However in the present case, appeal was pending before wrong forum by way of appeal, therefore I do not think that, the said decision is applicable to the facts of the case.

In the result, the application is allowed. The delay in filing the appeal is condoned.

Sd/-

Date: 25-02-2025

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