



सत्यमेव जयते

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

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

(Wednesday the 2nd day of March, 2022)

APPEAL No.87/2021

Appellant : M/s.Safa Constructions Pvt Ltd
VI/595, B,C,D & E, Vembilly P.O.
Ernakulam – 683565

By Adv.C. Anil Kumar

Respondent : The Regional PF Commissioner
EPFO, Sub Regional Office
Kochi – 682017

By Adv.Sajeevkumar K. Gopal

This case coming up for admission on 02.03.2022 and the same day this
Industrial Tribunal-cum-Labour Court passed the following:

ORDER

Present appeal is filed from order no.KR/KCH/ENF1(5)/29464(7A)/2021
dt.23.08.2021 assessing dues U/s 7A of EPF and MP Act in respect of non
enrolled employees. The matter was originally posted to 31.03.2022 for
admission. The learned Counsel for the appellant filed IA. no.40/2022 pleading
for advancing the hearing in view of the recovery action being taken by the

Recovery Officer of the respondent office. Advocate Sri.Sajeevkumar K. Gopal takes the notice for the respondent.

There is delay in filing the appeal. The delay is condoned in view of the directions of the Hon'ble Supreme Court.

The impugned order is seen issued assessing dues in respect of non enrolled employees. This is the second round of litigation. In the earlier Appeal no.23/2017 this Tribunal set aside the assessment and remitted the matter back to the respondent authority to re-assess the dues in view of the direction in the said order. The learned Counsel for the appellant submitted that the appellant establishment produced all the required documents before the respondent authority for a proper assessment. But he has not considered the same. However the learned Counsel for the respondent pointed out that in the impugned order itself it is mentioned that the documents were not produced. The learned Counsel for the appellant pointed out the proceedings dt.21.01.2020 wherein it is stated that the employer submitted the statement along with supporting documents and submissions are taken on record. It is seen that there is some conflict in the impugned order regarding the documents produced. The learned Counsel for the appellant also pointed out that the assessment is made on the basis that the Form 11 in respect of the non enrolled employees were not produced. According to him Form 11 is not a

mandatory document and has undergone a lot of changes during the relevant point of time. It is not possible to agree with the argument of the learned Counsel that Form 11 is not a mandatory document.

The learned Counsel for the appellant submitted that the appellant remitted 40% of the assessed dues in Appeal No.23/2017 and it will become 50% of the present assessment which is not adjusted in the impugned order. The learned Counsel for the respondent submitted that the appellant may be directed to deposit 75% of the assessed dues as per the impugned order.

Taking the pleadings of the Counsels into account and also considering the fact that the amount of pre-deposit in Appeal No.23/2017 is not taken into account by the respondent authority in the impugned order, the present appeal is admitted waiving further pre-deposit. The impugned order is stayed until further orders.

Adjourned to 08.06.2022 for written statement of the respondent.

Sd/-

(V. Vijaya Kumar)
Presiding Officer