



सत्यमेव जयते

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

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

(Thursday the 17th day of March, 2022)

AppealNo.58/2020

Appellant : M/s.Mohandas College of Engineering
Anad P.O., Nedumangad
Trivandrum - 695541

By Adv.Ajith S. Nair

Respondents : 1. The Assistant PF Commissioner
EPFO, Regional Office, Pattom
Trivandrum - 695004

By Adv.Ajoy P.B.

2. Sri.Raveendran Nair V.
TC.10/2202 (6), Chathramoola
Kanjirampara P.O.
Trivandrum – 695030

By Adv.Anil Narayan

This case coming up for final hearing on 17.03.2022 and the same day
this Industrial Tribunal-cum-Labour Court issued the following:

ORDER

Present appeal is filed from Corrigendum order no.KR/TVM/16722/ENF-
II(2)/2019-20/6699 dt.20.02.2020 revising the assessment order issued U/s 7A

of the EPF & MP Act, 1952 (hereinafter referred to as 'the Act') in KR/RO/TVM/16722/ENF-II(2)/2019-20/5379 dt.01.01.2020 assessing dues in respect of non enrolled employees for the period from 08/2015 to 04/2019. The total dues assessed is Rs.5,80,087/-.

2. The appellant had challenged only the Corrigendum order without challenging or producing the original Sec 7A order on the basis of which the Corrigendum order is issued. It is seen that the assessment in the Corrigendum order is infact reduced, compared to the quantified amount in the 7A order.

3. After hearing the parties, the appeal was admitted vide order dt.14.12.2020 subject to remittance of 40% of the assessed dues within a period of 4 weeks from the date of the order. The appellant is required to remit 75% of the assessed dues as per Sec 7(O) for maintaining the appeal. However considering the pleadings of the learned Counsel for the appellant regarding the financial constrains of the appellant establishment, the pre-deposit amount was reduced to 40% of the assessed dues. The impugned order was also stayed until further orders. Thereafter the appeal was posted on 03.02.2021 for confirmation of pre-deposit. The learned Counsel for the appellant could not confirm the remittance of pre-deposit amount by the appellant. Thereafter the appeal was posted on various dates. On 08.09.2021 Sri.Ravindran Nair V. filed an impleading petition stating that he is one of the beneficiaries as per the impugned order and therefore pleading that he may

be impleaded in the appeal. After hearing the Counsels, the IA was allowed and Sri.Ravindran Nair V. was impleaded as respondent no.2. Thereafter the matter was posted on 04.10.2021, 01.12.2021, 09.02.2022 and 17.03.2022 for confirmation regarding the pre-deposit of 40% of assessed dues as ordered on 14.12.2020. On every date of posting the learned Counsel for the appellant sought further time for confirmation of deposit by the appellant. On 09.02.2022 the learned Counsel for the respondent submitted that the appellant failed to comply with the directions to deposit 40% of the assessed amount. The matter was finally posted on 17.03.2022 with a specific direction that if the appellant failed to confirm deposit before the next date of posting, the appeal will be dismissed as not maintainable. On 17.03.2022, the learned Counsel for the appellant sought further time. The learned Counsel for the respondent submitted that as per the impugned order, the amount quantified U/s 7A is Rs.5,80,087/- and the appellant is liable to remit 40% of the said amount U/s 7(O) of the Act. Accordingly the appellant is required to remit an amount of Rs.2,32,034/- with the respondent authority. However the appellant remitted an amount of Rs.60,000/- on 26.02.2021 and thereafter no amount is so far remitted by the appellant and therefore violated the conditions on which the appeal is admitted.

4. As per Sec 7(O) of the Act, "No appeal by the employer shall be entertained by a Tribunal unless he has deposited with it 75% of the amount

due from him as determined by an Officer referred to in Sec 7A provided that the Tribunal may for reasons to be recorded, waive or reduce the amount to be deposited under this section". In **M/s. Muthoot Pappachan Consultancy and Management Services Vs Employees Provident Fund Organization and Others**, 2009 (1) KHC 362 the Division Bench of the Hon'ble High Court of Kerala held that the deposit of 75% U/s 7(O) of Employees Provident Fund Act is a pre-condition for maintaining the appeal and not a condition for staying the operation of the order under appeal.

5. The appeal was admitted on 14.12.2020 on the condition that the appellant shall deposit 40% of the assessed dues with the respondent within 4 weeks from the date of the order. Even after one year and many extensions of time for pre-deposit, the appellant failed to comply with the pre-deposit U/s 7(O) of the Act even after the pre-deposit amount is reduced to 40% from 75% as required under the Section.

Hence the appeal is dismissed as not maintainable for non-compliance with the pre-deposit U/s 7(O) of the Act.

Sd/-
(V. Vijaya Kumar)
Presiding Officer