



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

Present: Shri. Irfan Qamar, Presiding Officer.
(Thursday, the 09th day of November, 2023)

APPEAL No.122/2022

Appellant : M/s. Dr. Menon's Nursing Home
Olavakkode
Palakkad – 678 002

Adv.Viju K Raphel

Respondents 1. Chairman
Central Board of Trustees
EPFO, New Delhi – 110 066

2. The Assistant PF Commissioner
EPFO, District Office,
Palakkad – 678 007.

Adv. Abraham P Meachinkara

This case coming up for final hearing on
09/11/2023 and this Tribunal-cum-Labour Court on same
day passed the following:

ORDER

1. Present appeal is filed by the appellant under Sec 7(I) of EPF and MP Act passed by Assistant Provident Fund Commissioner, Palakkad under Sec 14B.

2. Notice served upon the respondent. Respondent seek time to file the counter. Time granted for counter.
3. Heard the Counsel for Appellant on the point of Admission and Respondent Counsel.
4. Appellant submits that the appellant establishment is a nursing home and it is running in huge losses from 2014 onwards. There is also a labour problem in the hospital and due to sudden onset of Covid 19 pandemic, appellant hospital suffered huge losses. Due to the said situation, hospital could not pay the salary and remit the contribution for its employees and there was also delay in payment of the salary due to financial crisis faced by the appellant hospital. Appellant submits that it started to borrow money from all resources which were available at its disposal and its indebtedness mounted to unmanageable level. Appellant submits that there is no willful latches, negligence, omission on the part of appellant and the damages levied in the form of penalty are arbitrary and unsustainable in the eye of law.

There is no willful delay or mensrea on the part of appellant in not remitting contribution for period in question. It is submitted that the Assessing Officer did not consider financial difficulty and mitigation circumstances while determining the damages. Therefore prayed for setting aside the order.

5. Respondent counsel supported the order, under challenge in the appeal and contended that the Order has been passed according to law by following Principals of Natural Justice.
6. Peruse the record, appellant has raised debitable issues requires consideration in the appeal. Appeal is admitted for consideration. List the matter for counter on 25/01/2024.

Sd/-

(Irfan Qamar)
Presiding Officer

Appellant counsel submits that till the disposal of appeal, the operation of impugned order be stayed and respondent be restrained not to take any action for recovery of

the determined amount. Appeal has been admitted for consideration. Therefore exercising the power conferred under rule 21 of the EPF Tribunal Procedure Rule 1997, the operation of impugned order is suspended subject to remittance of the 20% of the determined amount under Sec 14B within 6 weeks and the proof of remittance being submitted on record. List the matter on 25th January 2024 for Counter.

Sd/-

(Irfan Qamar)
Presiding Officer