



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

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

(Tuesday the 28th day of September, 2021)

Appeal Nos. 479 /2019 (Old No. 241(7) 2016)
& 692/2019

Appellant : The Kinship Services (India) Pvt. Ltd
Willingdon Island
Cochin -682 003.

By Adv. Paulson C Varghese
Adv. Prakash Rajan Nayak

Respondent : The Assistant PF Commissioner
EPFO, Sub -Regional Office
Kaloor, Kochi – 682 017.

By Adv. Sajeev Kumar K.Gopal

This appeal came up for hearing on 01/07/2021 and this Industrial Tribunal cum Labour Court issued the following order on 28/09/2021.

ORDER

Appeal No. 479 / 2019 is filed from order No. KR/KCH/2138/Damages Cell/Ex-parte 015 dt.16/10/2015 assessing damages U/s 14B of EPF & MP Act, 1952

(hereinafter referred as 'the Act'.) for belated remittance of contribution for the period from 09/2011 to 09/2014. The total damages assessed is Rs. 80,372/-.

2. **Appeal No. 692/2019** is filed from order No. KR/KCH/2138/Penal Damages/2019/4437 dt. 01/07/2019 assessing damages U/s 14B of EPF & MP Act, 1952 (hereinafter referred as 'the Act'.) for belated remittance of contribution for the period from 01/04/1996 to 31/03/2018. The total damages assessed is Rs.1,01,939/-.

3. Since common issues are raised in both the appeals, the matters are heard together and disposed by a common order.

4. The main contention of the learned Counsel for the appellant is that there is an overlap of period between the assessments in Appeal No. 332/2019 and in the present appeal. When Appeal No. 332/2019 was taken up for hearing the learned Counsel for the respondent fairly conceded that there was an overlap and therefore the matter was remanded to the respondent authority to reassess the same. It is seen that the period of assessment in Appeal No. 332/2019 is from 05/2011 to 09/2011. In Appeal No. 479/2019 it is seen that the period of assessment of damages is from 09/2011 to

09/2014. It is further seen that the respondent authority issued another order levying damages for belated remittance of contribution for the period from 01/04/1996 to 31/03/2018 vide order dt.01/07/2019 which is the issue in Appeal No. 692/2019. It is seen that there is an apparent overlap in the period of assessment of damages in the respective orders issued by the respondent authority U/s 14B of the Act. Though it is possible that overlap can happen when contribution is paid in installments, in the absence of a proper explanation regarding the overlap in period of assessment, it is felt that the matter requires re-examination by the respondent authority. As the impugned order in Appeal No.332/2019 is already remanded back to the respondent authority, it is better that the respondent authority considers all the assessments under 14B in a comprehensive manner and issue an order explaining the overlap in the impugned orders and also correcting the same if required, for delayed remittance of contribution for the period from 01/04/1996 to 01/07/2019.

5. Considering the facts, circumstances, pleadings and evidence in this appeal it is not possible to sustain the impugned orders.

6. Hence the impugned orders in Appeal No. 479/2019 and Appeal No. 692/2019 are set aside and the matter is remitted back to the respondent authority to issue a comprehensive order assessing the damages U/s 14B for belated remittance of contribution after issuing notice to the appellant within a period of 6 months. If there is any real overlap in the periods of assessments and there is correction in the delay statement, the demand of penal interest U/s 7Q of the Act shall also be reviewed accordingly.

Hence the appeals are allowed, the impugned orders are set aside, and the matters are remanded to the respondent to issue fresh and comprehensive orders after issuing notice to the appellant, within a period of 6 months from the receipt of this orders.

Sd/-

(V. Vijaya Kumar)
Presiding Officer