



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

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

(Wednesday the 10th day of February, 2021)

Appeal No.01/2021

Appellant : Dr.Sebastian Paul
Moonjapilly House
Providence Road
Kochi - 682018

By Adv.P. Ramakrishnan

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

By Adv.Sajeev Kumar K.Gopal

This case coming up for hearing on 10.02.2021 and the same day this Tribunal-cum-Labour Court passed the following:

ORDER

Both sides are represented. The impugned order is issued U/s 7A of the EPF & MP Act assessing dues in respect the employees of M/s.Kerala Times for the period from 10/1997 to 04/1999. When the respondent initiated action to assess the dues, the appellant approached the Hon'ble High Court of Kerala in O.P. no.12851/2001 on the ground that the appellant was not the employer of the employees at any point of time and the appellant was not heard before the impugned order is issued. The Hon'ble

High Court vide order dt.29.06.2007 directed the respondent to give an opportunity to the appellant before the assessment is finalized. According to the learned Counsel for the appellant, the impugned order is issued without hearing the appellant and the appellant was not the employer at the relevant period of time. The impugned order specifically refers to the appellant as Chairman, M/s.Kerala Times.

The appellant is challenging his liability to pay as he was not the employer at the relevant point of time. The appellant has a specific case that he was not the Chairman, of Kerala Times at the relevant point of time. Since the appellant is challenging his status as the employer it is not fair to direct him to deposit even a part of the assessed amount. The appellant has a strong prima facie case.

Hence the appeal is admitted waiving the pre-deposit U/s 7(O) of the Act. The execution of the impugned order as against the appellant is stayed until further orders. However, it is clarified that this order will not prohibit the respondent from taking recovery action against other parties in the impugned order.

Adjourned and posted to 05.04.2021 for Counter.

Sd/-
(V. VIJAYA KUMAR)
Presiding Officer