



सत्यमेव जयते

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

Present: Shri.V.Vijaya Kumar, B.Sc., LLM, Presiding Officer.  
(Thursday the 24<sup>th</sup> day of February, 2022)

**APPEAL No.348/2019**

( Old No. ATA 437(7) 2015)

Appellant : M/s. Rubber Rearch Institute of India  
Rubber Board, Kottayam- 686009

By Advs. Joseph & Markos

Respondent : The Assistant PF Commissioner  
EPFO, Thirunakkara,  
Kottayam -686 001

By Adv. Joy Thattil Ittoop

This case coming up for final hearing on  
02/12/2021 and this Tribunal-cum-Labour Court on  
24/02/2022 passed the following:

**ORDER**

Present appeal is filed from order No. KR / KTM /  
1562/APFC/Penal Damages/2015/18294 dt. 24/02/2015,  
assessing damages U/s 14B of EPF & MP Act,1952 ( hereinafter  
referred to as 'the Act') for belated remittance of contribution  
for the period from 19/10/2005 to 23/04/2014 (for the period  
12/2005 to 12/2008 and 10/2010 to 02/2014) The total  
damages assessed is Rs. 3,14,832/-.

2. The appellant is an establishment under the Rubber Board engaged in research and development. Rubber Board is a statutory body under the control of Government of India. The appellant is covered under the provisions of the Act. During the period 05/1997 to 12/2005 the appellant engaged certain workers due to certain contingencies. The appellant did not enroll them to provident fund benefits under a bonafide belief that they are not entitled for the benefit. In the year 2009 the respondent vide order dt. 12/11/2009 determined the amount and directed the appellant to remit the same. The appellant remitted the amount immediately thereafter. After 5 years, the respondent issued notice U/s 14B of the Act alleging delay in remittance of contribution for the period from 1997 to 2005. There was also some delay in remittance of contribution in March 2012 due to some system problem. There was no intentional delay in remittance of contribution. The damages imposed is by way of penalty. Imposing penalty after a period of 10 to 18 years is against provisions of law. The respondent ought to have considered the fact that the delay in remittance was due to valid reasons. The respondent failed to consider that the remittance towards provident fund for the period 07/2008 to 08/2011 and 12/2011 were promptly made by the appellant and the delay

occurred only on the part of the bank in transferring the amount to the respondent. The respondent ought to have seen that the delay in remittance for 03/2012 was due to technical issues involved during the modernizations of the respondent organization.

3. The respondent filed counter denying the above allegations. Appellant is an establishment covered under the provisions of the Act. There was delay in remittance of contribution for the period 04/1997 to 02/2014. The respondent therefore initiated action vide show cause notice dt. 30/04/2014 U/s 14B of the act. A detailed delay statement was also forwarded to the appellant. The appellant was also afforded a personal hearing on 08/07/2014. A representative of the appellant attended the hearing. The authorized representative pointed out the difference in date of remittance shown in the statement with the date of challan in respect of dues for the month of 10/2011 , 01/2012 , 02/2012 and 04/2012 to 02/2014. He further admitted the delay the remittance of contribution for the period 04/1997 to 12/2005, 07/2008 to 08/2011, 12/2011 and 03/2012. The respondent authority took into consideration the remittances made in time and accordingly reduced the damages and interest. As per the definition of the employee U/s 2(f) of the

Act, all the persons who are employed for wages and who get his wages directly or indirectly from the employer, including any person employed by or through a contractor in or in connection with the work of an establishment, is an employee. The definition of employee under the Act does not make any distinction between a casual employee and a regular employee. Since there was delay in remittance of contribution the appellant is liable to pay damages and interest. The liability of the appellant to remit the contribution within the time stipulated under the statute is a statutory obligation and therefore any delay will attract damages U/s 14B of the Act. The Hon'ble Supreme Court of India in **K Street Lite Electric Corporation Vs RPFC**, 2001 (4) SCC 449 held that the delay initiated proceedings U/s 14B will not be a ground for setting aside an order imposing damages. The respondent authority considered all the pleadings by the appellant before issuing the impugned order. In **Chairman, SEBI Vs Sri Ram Mutual Fund and another** 2006 (5) SCC 361 the Hon'ble Supreme Court held that mensrea is not an essential ingredient for contravention of provision of a civil Act .

4. The respondent authority initiated action U/s 14B of the Act to levy damages since there was delay in remittance of provident fund contribution. According to the learned Counsel for

the appellant the major part of the delay occurred due to a misunderstanding that the casual employees need not be enrolled to provident fund membership. In the year 2009 the respondent authority initiated action and directed the appellant to remit the contribution in respect of all the casual employees engaged by the appellant establishment. The appellant establishment thereafter remitted the amount immediately. Admittedly there was delay in remittance of contribution . It was also pointed out by the learned Counsel for the appellant that in the month of March 2012 there was delay in remittance of contribution due to technical reasons. Learned Counsel for the respondent pointed out that the representative of the appellant who attended the proceedings before the respondent authority pointed out that a contribution for the month of 10/2011, 01/2012, 02/2012 and 04/2012 to 02/2014 was remitted in time and produced challans evidencing the same. The respondent authority therefore excluded the damages and interest for the said period. However the representative of the appellant admitted the delay in remittance of contribution for the rest of the period . According to him the claim of ignorance of the provisions of law is not enrolling the casual employees and remitting their contribution in time cannot be pleaded as a justification for delayed remittance of contribution

by the appellant. The learned Counsel for the appellant pleaded only two ground for the delayed remittance. One is with regard to the delayed remittance of contribution in respect of casual employees and the other one is the justification of technical problem for delayed remittance of contribution for March 2012. Both the above reasons cannot be considered as a justification for delayed remittance of contribution. The learned Counsel for the appellant also pleaded that there was no intentional delay in remittance of contribution and therefore the appellant establishment may be exempted from the damages U/s 14B.

5. The Hon'ble Supreme Court of India examined the applicability of mensrea in a proceedings U/s 14B of the Act . In **Horticulture Experiment Station Gonikoppal, Coorg Vs Regional PF Organisation**, Civil Appeal No. 2136/2012, the Hon'ble Supreme Court after examining the earlier decisions of court in **Mcleod Russel India Ltd Vs RPFC**, 2014 (15) SCC 263 and **Assistant PF Commissioner Vs The Management of RSL Textiles India (Pvt) Ltd**, 2017 (3) SCC 110 held that

“ Para 17 : Taking note of three Judge Bench judgment of this Court in **Union of india Vs. Dharmendra Textile Processor and others**

**(Supra)** which is indeed binding on us, we are of the considered view that any default or delay in payment of EPF contribution by the employer under the Act is a sine qua non for imposition of levy of damages U/s 14B of the Act 1952 and mensrea or actus reus is not an essential ingredient for imposing penalty/damages for breach of civil obligations/liabilities”

6. The delay is initially the proceedings U/s 14B of the Act will not help the appellant. The Hon’ble Supreme Court of India in **RPFC Vs KT Rolling Mill (P) Ltd.**, 1995 AIR (SC) 943, **K.Street Lite Electric Corporation Vs Regional PF Commissioner**, 2001 (4) SCC 449 and **Hindustan Times Ltd Vs. Union of India**, 1998 AIR (SC) 688, held that there is no limitation in initiating proceeding U/s14 B, as there is no such provision in the statute.

7. Considering the facts, circumstances pleadings and evidence in this appeal, I am not inclined to interfere with the impugned order.

Hence the appeal is dismissed.

Sd/-

**( V.Vijaya Kumar)**  
**Presiding Officer**