



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

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

(Monday the 22nd day of February, 2021)

Appeal No. 171/2019

(Old No.ATA-153(7)2015)

Appellant

M/s. Mathewsons Industries (I) Ltd
Kinfra Small Industries Park
Nellad 686721

By Adv. M/s. Menon & Pai

Respondent

The Regional PF Commissioner
EPFO, Sub Regional Office
Kaloor,
Kochi – 682017

By Adv. Sajeev Kumar K.Gopal

This case coming up for hearing on 22/02/2021 and this Industrial Tribunal-cum-Labour Court issued the following order on the same day.

ORDER

Present Order is issued U/s 7A of EPF & MP Act. The issue involved is waiver of employees' share of contribution for retrospective period. Considering the nature of relief claimed by the appellant, the appeal was admitted subject to remittance of 25% of dues within four

weeks vide order dt. 20/01/2020. The appellant was also directed to produce proof of remittance U/s 7(O) of the Act, on or before the next date of posting. The matter was posted on various dates and on 20/8/2020 the appellant requested for time for confirming the pre-deposit amount U/s 7(O) of the Act. The appeal was thereafter posted on 08/01/2021 & 08/02/2021. The appellant could not confirm the remittance of pre-deposit U/s 7(O) of the Act. The learned Counsel for the respondent however submitted the pre-deposit U/s 7(O) was not made by the appellant. On the request of the learned Counsel for the appellant the matter was finally posted on 22/02/2021. The learned Counsel for the appellant submitted that he has no instruction from the appellant regarding the pre-deposit U/s 7(O). The Counsel for the respondent submitted that the appellant did not remit the pre-deposit amount as directed by this Tribunal. It is more than one year since the appeal is admitted on the condition that the appellant shall remit 25% of the assessed dues within 4 weeks time.

2. 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 EPF Act is a pre-condition for maintaining the appeal and not a condition for staying the operation of the order under appeal.

3. In this case, the appeal was admitted on the condition of pre-deposit of 25% of the assessed dues in the special circumstances. The appellant was also directed to deposit the same within 4 weeks from the date of the order ie, 20/01/2020 and produce the proof of remittance before 24/03/2020. Even after one year the condition of pre-deposit U/s 7(O) of the Act, is not complied with.

Hence the appeal is dismissed as not maintainable

Sd/-

(V. Vijaya Kumar)
Presiding Officer