



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

सत्यमेव जयते

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

(Monday the 25<sup>th</sup> day of January, 2021)

**Appeal No.189&190/2018**

Appellant

M/s. Plant Lipids (P) Ltd  
(Plant Lipids Condiments-  
EOU Division)  
Kadayiruppu  
Kolenchery- Kochi -682311

By M/s. Bechu Kurian & Co.

Respondent

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

By Adv. Sajeev Kumar K.Gopal

This case coming up for hearing on 12/01/2021 and this Industrial Tribunal-cum-Labour Court issued the following order on 25/01/2021.

**ORDER**

**Appeal No 189/2018:** is filed from Order No. KR/KC/24246/Enf 5 (2) 2018-19/ 4026 dt. 8/6/2018 assessing the dues U/s 7A of EPF & MP Act, 1952 (hereinafter referred to as 'the Act') on evaded wages for the

period from 12/2014 to 07/2017. The total dues assessed is Rs. 20,97,589/-.

2. **Appeal No.190/2018:** is filed from Order No. KR/KC/24246/Enf 5 (2)/2018-19/4024 dt. 08/6/2018 assessing the dues U/s 7A of EPF & MP Act, 1952 (hereinafter referred to as 'the Act') on evaded wages for the period from 03/2008 to 11/2014 (excluding 3/2010 to 3/2013). The total dues assessed is Rs.8,06,277/-.

3. The appellant is an establishment covered under provision of the Act. The Enforcement Officer who conducted the inspection of the appellant establishment reported that the appellant is not paying contribution on the full wages paid to its employees. The appellant appeared before the Enforcement Officer and explained the factual and legal position. The appellant also send a reply to the inspection report given by the Enforcement Officer. On the basis of the inspection report of the Enforcement Officer the respondent initiated an enquiry U/s 7A of the Act. The appellant appeared before the respondent and explained that HRA, TA etc. being paid to its employees will not attract PF deduction. Without considering the submissions

made by the appellant the respondent issued impugned order.

4. The respondent filed counter denying the above allegations. It was noticed by the respondent that the appellant establishment in an attempt to reduce the statutory liability has been remitting contribution and filing returns only on a fraction of wages paid in respect of employees. Hence an enquiry was initiated against the respondent U/s 7A of the Act. A representative of the appellant attended the hearing and submitted that the calculation of dues is totally wrong and pointed out that certain allowances such as HRA, TA etc. are excluded from the definition of basic wages. The Hon'ble Supreme Court of India and various High Courts in the country clarified the way the allowances are to be treated for the purpose of calculating PF liability of its employees. After applying those tests the respondent found that the appellant is liable to pay contribution on evaded wages as per the impugned orders.

5. On a perusal of the impugned orders it is not clear on what basis the assessment order are issued. The impugned order only states the chronology of events and

the final decision arrived by the respondent authority U/s 7A. The Hon'ble Supreme Court as well as the Hon'ble High Court of Kerala in various decisions has pointed out that the quasi judicial authorities U/s 7A and 14B will have to act judicially and issue speaking orders so that the logic and reasoning while arriving at the conclusion by the concerned authority is clear from the order itself. From the impugned orders it is not clear as to what is the nature of evasions detected by the Enforcement Officer of the respondent and considered by the 7A authority. If it is in respect of certain allowances, it is not clear which are the allowances paid by the appellant and which are the allowances considered by the Sec.7A authority for calculation of contribution. The authority shall also give reasons why he felt that those allowances will attract PF deduction. If certain allowances are excluded he should also give reasons why such allowance will not attract PF deduction. In the absence of any such finding it is not possible to sustain the impugned orders. The respondent authority is directed to reassess the dues through speaking orders after properly examining the factual and legal position.

Hence the impugned orders are set aside and the matter is remitted back to the respondent authority to reassess the dues on the basis of the above discussions within a period of three month after issuing notice to the appellant.

Sd/-

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