



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

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

(Thursday the 18th day of November, 2021)

Appeal No.555/2019

(Old No. 516(7)/2010)

Appellant : M/s. Hotel Luciya
East Fort.,
Thiruvananthapuram -695 023.

By Adv.P.Gopalakrishnan Nair

Respondent : The Assistant PF Commissioner
EPFO, Regional Office
Pattom,
Thiruvananthapuram – 695 004.

By Adv. Ajoy P.B

This case coming up for hearing on 12/08/2021 and this Industrial Tribunal-cum-Labour Court issued the following order on 18/11/2021.

ORDER

Present appeal is filed from order No. KR/10249/Enf-1(2)/2009/2411 dt. 26/05/2010 assessing the dues U/s 7A of EPF

& MP Act, 1952 (hereinafter referred to as 'the Act') against non enrolled employees for the period from 03/2009 to 02/2010. The total dues assessed is Rs.59,004/-.

2. The appellant is a hotel and is covered under the provisions of the Act. The security services of the appellant was outsourced to an agency by name M/s.Task Force Security Services. Only 4 employees were deployed through the said agency. The respondent authority initiated an enquiry u/s 7A of the Act vide summons dt. 20/05/2010. A representative of the appellant attended the hearing. The representative of the appellant did not dispute the engagement the security guards, their date of joining or regarding payment of monthly salary. The security agency was not covered under the provisions of the Act. The Enforcement Officer attached to the respondent's office reported that 6 employees were not enrolled. The respondent authority without looking into the records maintained by the appellant establishment assessed the dues on the basis of the report of the Enforcement Officer .

3. The respondent filed counter denying the above allegations. Appellant is an establishment covered under the provisions of the Act. The appellant defaulted in payment of contribution in respect of 6 non-enrolled employees for the period from 03/2009 to 02/2010. An enquiry U/s 7A of the Act was initiated vide summons dt. 28/05/2010. The enquiry was fixed on 28/05/2010. A representative of the appellant attended the hearing. A copy of the report of the Enforcement Officer, was provided to the appellant. As per the report of the Enforcement Officer 6 security guards were not enrolled to the provident fund membership. The representative of the appellant confirmed the statement of the Enforcement Officer and submitted that these personnel were engaged in the establishment for security services and did not dispute the date of joining and salary paid to them. The acceptance of the report of the Enforcement Officer by the representative of the appellant is part of the daily order on 20/05/2015. The security agency M/s Task Force Security Service is not covered under

the provisions of the Act and therefore the appellant is liable to comply with the provisions of the Act and Schemes in respect of those employees deployed by the contractor. The appellant subsequently admitted the liability and remitted the assessed dues. As per section 2(f) of the Act and Para 30 of EPF Scheme it is the responsibility of the principal employer to remit the contributions in respect of the employees engaged through a contractor.

4. An Enforcement Officer of the respondent organization inspected the appellant establishment and found that 6 employees engaged through a contractor is not extended the social security benefits. On the basis of the report of the Enforcement Officer, the respondent authority initiated an enquiry U/s 7A of the Act. A representative of the appellant attended the hearing and accepted the finding of the Enforcement Officer that 6 persons were engaged by the appellant establishment as security guard from a security agency M/s Task Force Security Services. The representative of

the appellant also admitted the name of the employees, the date of joining and the wages being paid by the appellant establishment. Since there was no dispute, the respondent authority issued the impugned order assessing the dues in respect of the security persons engaged through a contractor.

In this appeal the main dispute is with regard to the number of persons engaged through the contractor. According to the appellant, they engaged only 4 security guards from the agency.

However it is seen that the representative who attended 7A proceedings was provided with copy of the report of the Enforcement Officer. He admitted the number of security guards, their date of joining and also the salary paid to them.

After having admitted the liability it is not correct on the part of the appellant to turn around to say that they engaged only 4 security guards from the contractor. Sec 2 (f), 8A of the Act and Para 30 of the EPF Scheme makes the principal employer liable for the contributions in respect of employees engaged through a contractor. In this particular case the contractor is not an

agency covered under the provisions of the Act and therefore the appellant becomes exclusively liable for the social security contribution of the contract employees engaged by them. Further the appellant did not adduce any document to substantiate their claim that they engaged only four security guards.

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

Hence the appeal is dismissed

Sd/-

(V. Vijaya Kumar)
Presiding Officer