



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

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

(Wednesday the 16th day of February, 2022)

Appeal No.16/2021

- Appellants : 1. Sri.Joy K.G.
Koikkara House
Erumathala P.O.
Ernakulam – 683122
2. M/s.Goodlife Construction &
Developers
Valayil House, Palissery Road
Palarivattom P.O.
Ernakulam – 682025

By M/s.Jayasankar & Manu

- Respondents : 1. The Regional PF Commissioner
EPFO, Sub Regional Office, Kaloor,
Kochi – 682017
2. The Assistant PF Commissioner
EPFO, Sub Regional Office, Kaloor,
Kochi – 682017
3. The PF Commissioner
EPFO, Sub Regional Office, Kaloor,
Kochi – 682017
4. The Recovery Officer
EPFO, Sub Regional Office, Kaloor,
Kochi – 682017

By Adv.Sajeevkumar K. Gopal

This case coming up for final hearing on 16.02.2022 and the same day this Industrial Tribunal-cum-Labour Court issued the following:

ORDER

Present appeal is filed from order no.KR/KCH/29474(7A)/ENF-1(3)/2018/1830 dt.04.05.2018 assessing dues U/s 7A of the EPF & MP Act, 1952 (hereinafter referred to as 'the Act') for the period from 07/2013 to 08/2016 and the order dt.17.10.2020. The total dues assessed is Rs.49,29,846/-.

2. The appeal was admitted vide order dt.28.09.2021 subject to the condition that the appellant shall deposit 50% of the assessed dues U/s 7(O) of the Act with the respondent within 3 weeks from the date of the order. As per Sec 7(O) the appellant was required to deposit 75% of the assessed dues. The appellant filed IA No.233/2021 seeking to review the order dt.28.09.2021 and reduce the pre-deposit amount. In the special circumstances pleaded by the Counsel for the appellant, the pre-deposit was reduced to 30% and the appellant was directed to deposit the said amount with the respondent within three weeks vide order dt.28.09.2021 and produce proof of deposit on or before 09.12.2021. On 09.12.2021 both the parties were represented and the Counsel for the appellant could not confirm 7(O) remittance. Adjourned and finally posted to 16.02.2022 for confirmation of 7(O) deposit. When the matter is finally taken up today, there is no representation for the appellant.

The learned Counsel for the respondent submitted that the 7(O) direction is not complied with.

3. 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.

4. The appeal was admitted on 28.09.2021 on the condition that the appellant shall deposit 30% of the assessed dues with the respondent within 3 weeks and produce proof of remittance on or before 09.12.2021. Even after two months the appellant failed to comply with the pre-deposit U/s of the Act 7(O) even after the pre-deposit is reduced to 30% from 75% as required under the Section.

Hence the appeal is dismissed as not maintainable for non-compliance with 7(O) order.

Sd/-
(V. VijayaKumar)
Presiding Officer