



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

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

(Thursday the 27th day of January, 2022)

Appeal No.207/2019

(Old No.1478(7)2015)

Appellant : M/s.Mahavir Plantations Pvt Ltd
Willingdon Island
Kochi - 682003

By M/s.Menon & Pai

Respondents : The Assistant PF Commissioner
EPFO, Regional Office, Pattom
Trivandrum - 695004

By Adv.Nita N.S.

This case coming up for hearing on 27.01.2022 and the same day this Industrial Tribunal-cum-Labour Court issued the following:

ORDER

Present appeal is filed from order no.KR/TVM/390/ENF-II(2)/2015/5272 dt.17.11.2015 assessing dues U/s 7A of the EPF & MP Act, 1952 (hereinafter referred to as 'the Act') for the period from 06/2013 to 12/2014. The total dues assessed is Rs.13,96,787/-.

2. The appeal was admitted vide order dt.27.01.2020 subject to the condition that the appellant shall deposit 30% of the assessed dues U/s 7(O) of the Act with the respondent within 4 weeks from the date of the order. As per Sec 7(O) the appellant was required to deposit 75% of the assessed dues. However, in the special circumstances pleaded by the Counsel for the appellant, the pre-deposit was reduced to 30% and the appellant was directed to produce proof of deposit on or before 12.03.2020. On 12.03.2020 both the parties are represented and the Counsel for the appellant could not confirm 7(O) remittance. Thereafter the matter was posted on various dates to confirm deposit U/s 7(O) of the Act. On 15.01.2021, the learned Counsel for the appellant sought extension of time for depositing 7(O) amount and time was granted. Finally the matter was adjourned to 04.03.2021 for confirmation of 7(O) deposit and counter. Again the matter was adjourned to 18.03.2021. Thereafter the matter was posted on various dates. On 12.08.2021 the learned Counsel for the appellant submitted that Rs.50,000/- is deposited against pre-deposit and requested for further time to deposit the balance amount. The matter is already delayed. However a final chance is given on 04.10.2021. On 04.10.2021 again the appellant sought time for remittance of 7(O), inspite of the direction in the last posting. The matter is again posted to 01.12.2021. On 01.12.2021 the appellant filed a memo stating that Rs.1,00,000/- is remitted against 7(O) deposit and sought further time for deposit. Adjourned and finally posted to 27.01.2022 for confirmation of 7(O)

deposit. When the matter is finally taken up today, the learned Counsel for the appellant 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 27.01.2020 on the condition that the appellant shall deposit 30% of the assessed dues with the respondent within 4 weeks and produce proof of remittance on or before 12.03.2020. Even after more than 1 ½ years and many adjournments 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.

Sd/-
(V. VijayaKumar)
Presiding Officer