



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

सत्यमेव जयते

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

(Tuesday the 1st day of June, 2021)

Appeal No.353/2019

(Old No.716(7)2015)

Appellant

Sri.K.M. Ummer
Proprietor
M/s.Hotel Paradise
Kalpetta
Wayanad - 673121

By Adv. Sreejith Cherote

Respondent

The Assistant PF Commissioner
EPFO, Sub Regional Office
Iranhipalam
Kozhikode - 673006

By Adv.(Dr.)Abraham P. Meachinkara

This case coming up for hearing and this Industrial Tribunal-cum-Labour Court issued the following order:

ORDER

Present appeal is filed against order no.KR/KKD/28790/ENF/2015/14137 dt.19.03.2015 assessing dues U/s 7A of the EPF & MP Act, 1952 for the period from 04/2013 to 12/2013. The total dues assessed is Rs.1,47,392/-.

2. The appeal was admitted on 27.09.2019 subject to the condition that the appellant shall deposit 40% of the assessed dues U/s 7(O) of the Act 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 40%. The appeal was posted on various dates. On 28.02.2020 the learned Counsel appearing for the appellant sought extension of time to deposit the Sec 7(O) amount. The request was allowed and the time was extended till 30.03.2020. When the matter was taken up on 23.03.2021, the Counsel for the appellant again requested for extension of time for pre-deposit. The prayer was allowed and time was extended till 31.05.2021 on the condition that the appeal will be stand dismissed if the pre-deposit is not made before 31.05.2021. On 01.06.2021 the Counsel for the respondent filed a memo to the effect that the pre-deposit U/s 7(O) is not made as on 31.05.2021.

3. As per Sec 7(O) of the Act, “No appeal by the employer shall be entertain by a Tribunal unless he has deposited with it 75% of the amount due from him asdetermined by an Officer referred to in Sec 7A provided thatthe 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 27.09.2019 on the condition that the appellant shall deposit 40% of the assessed dues with the respondent within 4 weeks and produce proof of remittance on or before 29.11.2019. inspite of the reduction in the pre-deposit amount and various extention granted, the appellant failed to satisfy the mandatory pre-deposit U/s 7(O) of the Act even after 1½ years.

Hence the appeal is dismissed as not maintainable.

Sd/-

(V. Vijaya Kumar)
Presiding Officer