



सत्यमेव जयते

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

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

(Wednesday the 15th day of September, 2021)

APPEAL No.448/2019

(Old no.174(7)2016)

Appellant : M/s.Kims Kollam Multi Specialty
Hospital India Pvt Ltd
13/766, Sithara Junction
Mylakkad, Kottiyam
Kollam - 691571

By Adv.Ajith S.Nair

Respondent : The Assistant PF Commissioner
EPFO, Sub Regional Office
Kollam – 691001

By Adv.Pirappancode V.S.Sudheer &
Adv.Megha A.

This case coming up for final hearing on 14.09.2021 and this Tribunal-cum-Labour Court on 15.09.2021 passed the following:

ORDER

Present appeal is filed from order no.KR/KLM/25475/PD/2015-16/3147 dt.09.10.2015 assessing damages U/s 14B of EPF & MP Act (Hereinafter referred to as 'the Act') for belated remittance of contribution for the period from 08/2011 to 09/2013. The total damages assessed is Rs.31,615/-. The interest

demanded U/s 7Q of the Act for the same period is also being challenged in this appeal.

2. According to the appellant, the appellant establishment started functioning from 05.04.2013 by taking over a running hospital M/s.Life Care. According to the appellant, the appellant establishment cannot be held responsible for the default or delay in payment of contribution by its predecessor. The appellant also pleaded financial constraints for delayed remittance of contribution, it is also stated that there was delay in getting User ID and password from the respondent organisation.

3. According to the learned Counsel for the respondent, M/s.Life Care Hospital was covered under the provisions of the Act w.e.f. 01.06.2011 and the appellant took over the management on 04.04.2013 as a running concern. When an establishment is covered under the provisions of the Act, the change in management will not affect the liability under the Act. It is also submitted that as order issued U/s 7Q of the Act is not appealable.

4. The appellant has taken 3 grounds in this appeal. The first ground is that the appellant has taken over the management of the hospital only w.e.f. 04.04.2013 and therefore the appellant cannot be held liable for the delay in remittance by its predecessor. As rightly pointed out by the learned Counsel for the respondent, the liability under the Act is fixed on the establishment and

not on the management. The appellant has not produced any documents to substantiate their claim that they are not liable for the provident fund liability prior to 04.04.2013. The second ground pleaded by the appellant is that there was delay in allotting code number to the appellant establishment. According to the respondent, the appellant is liable to continue with the same code number allotted to Life Care Hospital. Therefore the appellant cannot plead that there was delay in allotment of code number for the appellant establishment. The 3rd ground pleaded by the appellant is with regard to the financial difficulties. The appellant failed to produce any documents to substantiate financial difficulties of the appellant establishment at the relevant point of time.

5. The learned Counsel for the respondent pleaded that no appeal is maintainable against an order issued U/s 7Q of the Act. On perusal of Sec 7(I) of the Act, it is seen that there is no provision U/s 7(I) to challenge an order issued U/s 7Q of the Act. The Hon'ble Supreme Court of India in **Arcot Textile Mills Vs RPFC**, AIR 2014 SC 295 held that no appeal is maintainable against 7Q order. The Hon'ble High Court of Kerala in **District Nirmithi Kendra Vs EPFO**, W.P.(C) 234/2012 also held that Sec 7(I) do not provide for an appeal from an order issued U/s 7Q of the Act. The Hon'ble High Court of Kerala in **M/s ISD Engineering School Vs EPFO**, W.P.(C) no.5640/2015(D) and also in

St. Marys Convent School Vs APFC, W.P.(C) no.28924/2016 (M) held that the order issued U/s 7Q of the Act is not appealable.

6. The learned Counsel for the respondent submitted during the course of hearing that the appellant had already remitted the assessed damages and interest.

7. 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