



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

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

(Wednesday the 16th day of December, 2020)

APPEAL No.59/2018
(Old No.A/KL-39/2016)

Appellant : M/s.Ernakulam Regional Co-operative
Milk Producers Union Ltd
P.B.No.33, Tripunithura
Kochi - 682301

By M/s.B.S.Krishnan Associates

Respondent : The Assistant PF Commissioner
EPFO, Regional Office, Kaloore
Kochi – 682017

By Adv.S. Prasanth

This case coming up for final hearing on 07.12.2020 and this Tribunal-cum-Labour Court on 16.12.2020 passed the following:

ORDER

Present appeal is filed from order no.KR/KCH/2729/A/DAMAGES CELL/2015-16/3119 dt.10.05.2015 assessing damages U/s 14B of EPF & MP Act, 1952 (hereinafter referred to as 'the Act') for belated remittance of contribution for the period from 04/2002 to 01/2008. The total damages assessed is Rs.7,111/-. The interest claimed U/s 7Q of the Act for the same period is also

being challenged in this appeal. It is seen that the appellant has also challenged another 14B order no.KR/KCH/2729.A/DAMAGES CELL/PJT/2015/3491 dt.10.05.2016 assessing damages for the period from 09/2010 to 03/2012. The damages assessed is Rs.580/-. The interest demanded U/s 7Q of the Act is also being challenged in this appeal. It is seen that the appellant has challenged four orders in one appeal. It is seen that EPF Appellate Tribunal, Bangalore vide order dated 09.08.2016 admitted the appeal challenged in the order no. KR/KCH/2729.A/DAMAGES CELL/PJT/2015/3491 dt.10.05.2016 only. Hence the appeal from order no.KR/KCH/2729/A/DAMAGES CELL/2015-16/3119 dt.10.05.2015 is not considered in this order and the appellant is given liberty to file appeal from the order of the respondent assessing damages U/s 14B within a period of one month of the receipt of this order.

2. The appellant establishment is a co-operative society registered under Kerala Co-operative Societies Act and is engaged in procuring, processing and marketing milk and milk products. The appellant is prompt in compliance and regular in payment of provident fund. While so the respondent issued a notice alleging delay in remittance of provident fund contribution for the period from 09/2010 to 03/2012 which is produced and marked as Annexure 3. The delay statement is produced and marked as Annexure 3A. From Annexure 3A, it can be seen that the delay in remittance of contribution is of 09/2010, 03/2011,

07/2011 and 03/2012. According to the learned Counsel for the appellant, the damages for delay during those 4 months has already been assessed and the same is also remitted by the appellant. However the appellant could not produce the challans for having remitted the same and probably due to non production of challans the respondent issued the impugned order.

3. The respondent filed counter denying the allegations. There was delay in remitting provident fund contribution for the period from 09/2010 to 03/2012. Any delay in remittance of contribution will attract damages U/s 14B of the Act read with Para 32A of EPF Scheme. The appellant produced the challans for 03/2011, 07/2011 to prove that they remitted the contribution in time. Hence those remittances were excluded from the assessment of damages. The appellant also requested challans for the past 5 years for verification. The appellant was instructed to verify their cash book to confirm the remittance as the challans were not kept after entering the details in the computer after comparing with the balance statement.

4. The learned Counsel for the respondent submitted that no appeal can be filed against an order issued U/s 7Q of the Act. On verification of Sec 7(I), it is seen that no appeal is provided from an order issued U/s 7Q. The Hon'ble Supreme Court of India in **Arcot Textile Mills Vs RPFC**, AIR 2014 SC 295 held that no appeal is provided against imposition of interest as stipulated under 7Q.

The Hon'ble High Court of Kerala in **District Nirmithi Kendra Vs EPFO**, W.P.(C) 234/2012 also held that no appeal is maintainable from an order issued U/s 7Q.

5. The only dispute is whether damages U/s 14B for the months 07/2011 and 03/2012 had already been levied and recovered from the appellant. The appellant has taken such a plea. The impugned order as well as the counter is completely silent on this aspect. Hence it is left to the respondent to verify whether the damages for the period has already been assessed and recovered from the appellant.

Hence the appeal against order no. KR/KCH/2729.A/DAMAGES CELL/PJT/2015/3491 dt.10.05.2016 is allowed and the matter is remitted back to the respondent to verify whether the damages had already been assessed and recovered and if the respondent finds that the damages for the said period is not assessed and recovered, he is at liberty to realise the same after issuing notice to the appellant. The appeal against Sec 7(Q) order is dismissed as not maintainable.

Sd/-

(V. Vijaya Kumar)
Presiding Officer