



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

सत्यमेव जयते

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

(Tuesday the 1st day of June, 2021)

Appeal No.622/2019

(Old No.553(7)2013)

Appellant

M/s.Fathima Hospital
Bank Road
Kozhikode - 673001

By Adv. M. P.Radhakrishnan

Respondent

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

By Adv.(Dr.)Abraham P. Meachinkara

This case coming up for hearing on 01.06.2021 and this Industrial Tribunal-cum-Labour Court issued the following order on the same day.

ORDER

Present appeal is filed from order no.KR/KK/14899/ENF-1(1)/2012-13/82 dt.10.01.2013 assessing dues U/s 7A of the EPF & MP Act, 1952 against 19 non enrolled employees for the period from 06/2010 to 10/2012. The total dues assessed is Rs.4,05,058/-.

2. The appeal was admitted vide order dt.27.02.2020 subject to the condition that the appellant shall deposit 40% of the assessed dues U/s 7(O) of the Act within one month 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 and finally on 22.03.2021 and 31.05.2021. There was no representation for the appellant and no confirmation regarding pre-deposit.

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. U/s 7(O) of the Act, the normal rule is deposit of 75% of the amount assessed U/s 7A. In the special circumstances pleaded by the

learned Counsel for the appellant, the pre-deposit was reduced to 40%.

4. The appeal was admitted on 27.02.2020 on the condition that the appellant shall deposit 40% of the assessed dues with the respondent within one month and produce proof of remittance on or before 23.04.2020. There after the time for deposit amount was extended till 31.05.2021. Even after more than one year the appellant failed to comply with the requirement. The learned Counsel for the respondent filed a memo to the effect that the appellant failed to deposit the pre-deposit U/s 7(O) of the Act as on 31.05.2021.

Hence the appeal is dismissed as not maintainable.

Sd/-

(V. Vijaya Kumar)
Presiding Officer