



सत्यमेव जयते

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

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

(Wednesday the 6th day of October, 2021)

Appeal No.66/2020

Appellant : M/s.Thekke Pookattil Usman Koya
Railway Parcel Handling Contractor
Southern Railway
Ernakulam Town
Kochi - 682018

By M/s.Peter & Karunakar

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

By Adv.Sajeevkumar K. Gopal

This case coming up for final hearing on 06.10.2021 and the same day this Industrial Tribunal-cum-Labour Court issued the following:

ORDER

Present appeal is filed from order no.KR/KCH/1428832(7A)/ENF-V(1)/2020/10534 dt.31.01.2020 assessing dues U/s 7A of the EPF & MP Act, 1952 (hereinafter referred to as 'the Act') for the period from 10/2015 to 03/2018. The total dues assessed is Rs.20,16,419/-. Order no. KR/KCH/

1428832(7A)/ENF-V(1)/2020/1612 dt.08.07.2020 U/s 7B of the Act also challenged in this appeal.

2. The appeal was admitted vide order dt.11.11.2020 subject to the condition that the appellant shall deposit 25% of the assessed dues U/s 7(O) of the Act with the respondent within 3 weeks and proof of remittance shall be produced on the next date of posting, taking into account the financial constraints pleaded by the Counsel for the appellant. The matter was adjourned to 08.12.2020 for confirmation of pre-deposit and counter. There was no confirmation for Sec 7(O) deposit. On 01.03.2021 both the parties were represented. Respondent filed counter. The appellant filed IA No.296/2020 for extension of time for pre-deposit. Extension granted upto 10.05.2021 and the appeal was posted on 11.05.2021 for confirmation of remittance and hearing. On 06.07.2021 both the parties are represented. The Counsel for the appellant submitted that the 7(O) amount is not deposited and sought extension of time. The matter was posted to 24.08.2021 for confirmation of 7(O) deposit and hearing. On 24.08.2021 again the appellant sought time for deposit of 7(O) and time was granted till 06.10.2021 for confirmation of 7(O) deposit and hearing. When the matter was taken up today both the parties were represented and the Counsel for the appellant submitted that the 7(O) direction was not complied with even after the extended time.

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 11.11.2020 on the condition that the appellant shall deposit 25% of the assessed dues with the respondent within 3 weeks from the date of the order. Even after 10 months and many extensions of time for pre-deposit, the appellant failed to comply with the pre-deposit U/s 7(O) of the Act even after the pre-deposit amount is reduced to 25% from 75% as required under the Section.

Hence the appeal is dismissed as not maintainable for non-compliance with the pre-deposit U/s 7(O) of the Act.

Sd/-
(V. VijayaKumar)
Presiding Officer