



सत्यमेव जयते

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

Present: Shri.Irfan Qamar, Presiding Officer.

(Friday the 10th day of November, 2023)

APPEAL No.71/2023

Appellant : M/s.Kerala Ayurveda Ltd
Kerala Ayurveda Pharmacy Ltd
Athani, Aluva
Ernakulam - 683585

By Adv.Benny P. Thomas

Respondent : The Regional PF Commissioner
EPFO, Regional Office
Kochi - 682017

By Adv.Sajeev Kumar K. Gopal

This case coming up for admission on 10.11.2023 and the same day this Industrial Tribunal-cum-Labour Court passed the following:

ORDER

1. Present appeal is filed by the appellant U/s 7(I) of the EPF and MP Act, 1952 challenging the impugned order dt.05.06.2023 passed by respondent authority U/s 14B along with application U/s 7(O) of the Act for waiver of the pre-deposit condition.
2. Notice served upon the respondent. Counsel for the respondent appeared, seeking time for counter.
3. Heard the learned Counsel for appellant on the point of admission as well as the Counsel for the respondent.

4. Appellant Counsel submits that the respondent PF authority has passed the order in violation of the principle of natural justice and also against the provisions of law. Further it is submitted that the act of the respondent initiating steps for recovery of damages alleging delay in payment of contribution during the period 01.12.1996 to 30.11.2009 is not at all sustainable under law as the claim had already become time barred or stale. Respondent had no cause of action to raise the claim for damages alleging delay in payment of contribution by issuing notice after almost 20 years and conduct an enquiry after 25 years. Appellant further submits that respondent ought to have consider the plea of mensrea and sufficient opportunity to be provided to the appellant during the enquiry but the PF authority did not consider the documents produced by the appellant and also contentions raised in the statement filed by the appellant and it is obvious that respondent has not applied his mind while passing the impugned order. Appellant further submits that the assessing authority did not consider mitigating circumstances in the present case while imposing the damages on 100% basis.
5. On the other hand the respondent counsel by supporting the impugned order contented that the PF authority had passed the order U/s 14B according to law by following the principles of natural justice.
6. Peruse the records and impugned order. The appellant has made out prima facie case for consideration in the present appeal and the appeal is admitted for consideration and application of 7(O) is allowed. List the matter for counter on 29.01.2024.

Sd/-
(IRFAN QAMAR)
Presiding Officer

Appellant Counsel submitted that the respondent authority is threatening to take coercive steps to recover the amount levying as damages under impugned order and if the operation of the impugned order is not suspended the appellant would suffer irreparable loss and prayed to pass an interim order to stay the operation of impugned order pending disposal of the appeal. Since appeal has been admitted for consideration, while exercising the power conferred under rule 21 of EPF Appellate Tribunal Rule, 1997 the operation of imputed order is suspended till disposal of the appeal subject to remittance of 20% of the determined amount U/s 14B within 4 weeks. List the matter for counter on 29.01.2024

Sd/-
(IRFAN QAMAR)
Presiding Officer