

**BEFORE THE PRESIDING OFFICER, CENTRAL  
GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR  
COURT-II, ROUSE AVENUE, DISTRICT COURT COMPLEX,  
DELHI.**

Present:

Smt. Pranita Mohanty,  
Presiding Officer, C.G.I.T.-Cum-Labour  
Court-II, New Delhi.

**ATA No. D-1/17/2018**

M/s. B. N. Gupta & Company

Appellant

VS.

RPFC/ APFC, Delhi (East)

Respondent

**ORDER DATED :-04/02/2022**

Present:- Shri S.P. Arora & Rajiv Arora, Ld. Counsel for the  
Appellant.  
Shri Rajesh Kumar, Ld. Counsel for the Respondent.

This order deals with application filed by the appellant separately seeking an order condoning the period of delay in filing the appeal for the grounds stated therein. Copy of the petition being served on the Respondent the learned counsel Sh Rajesh Kumar appeared and participated in the hearing on the said petition by filing written objection on behalf of the Respondent.

Perusal of the record shows that the registry has raised objection for admission of the appeal on account of delay in filing of the same. It is seen on record that the impugned order u/s 7A was passed on 30/11/2017 and the appellant being aggrieved had filed an application u/s 7B of the Act which was rejected by order dt 15.02.18. The appeal, since has been filed on 11.06.2018, has been objected as barred by limitation.

During hearing the learned counsel for the appellant submitted that the Tribunal has the discretion of extending the period of limitation in appropriate cases if the same is required in the interest of justice. He also submitted that the impugned order passed u/s 7B was served on the appellant on 18.02.2018. By filing the photo copy of the postal envelope which bears the seal dt 18.02.2018, he submitted that the appellant took some time to verify the LCR from the office of the Respondent. But the Respondent before expiry of the 60 days period prescribed for filing the appeal, initiated recovery action and recovered the entire assessed amount from the Bank account of the appellant which left the appellant in a state of shock. After recovering from the situation, the appeal was filed on 11.06.2018. though it has been filed after sixty days, it is well within the period up to which the Tribunal by exercise of its discretion can extend the period of limitation. The appeal involves a valuable right of the appellant and there is a bonafide ground for condonation of delay.

The learned counsel for the respondent in reply submitted that the establishment was participating in the hearing and had produced the records for verification. Being fully aware of the orders passed it acted in a negligent manner in filing the appeal. He further submitted that the Appellant is required to prove each single day of delay with bonafide explanation. While relying on the decision of the Hon'ble High Court of Allhabad in the case of Angoori Devi Inter College vs State of U P(WPC27906/2019) he submitted that the Rule prescribes 60 days time period for filing the appeal, which can be extended for a further period of 60 days by the Tribunal on good and convincing grounds shown and not beyond that. He also submitted that the order dt 15.02.18. was duly communicated to the establishment in the address available in the portal. The plea that recovery action left the appellant in a state of shock is far from belief as it was very well known to the establishment that the order of assessment is followed by the action of recovery. Hence the appellant has failed to explain the delay and the appeal be dismissed as barred by limitation.

As per Rule 7(2) an appeal challenging the order of EPF Authority is to be filed within 60 days from the date of communication of the order which can be extended for a further period of 60 days. Exception to the rule is available only in the circumstances where the statutory authority has not acted in accordance with law or in defiance of the principles of natural justice . As seen from the record the appeal has been filed within 120 days, up to which the Tribunal has power to extend the period of limitation.. All these aspects when considered it is found that the appellant had failed to file the appeal within the period of limitation for a reason beyond his control and the delay if not condoned for admission of the appeal serious prejudice shall be caused to him. Hence the petition for condonation of delay is allowed. Call the matter on 14-February-2022 for hearing the application filed u/s 70 of the Act and admission of the appeal.

(Presiding Officer)