

**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. 910(16)2012**

M/s. Iffco Tokyo General Insurance Co. Ltd.

Appellant

VS.

APFC, Gurgaon

Respondent

**ORDER DATED :-13/10/2022**

Present:- None for the Appellant.

Shri S.N Mahanta, Ld. Counsel for the Respondent.

This order deals with an application filed by the appellant of the disposed of appeal invoking the provision of law laid u/s 7L(2) of the EPF &MP Act, for review of the final order dated 08.03.2021 passed by this Tribunal disposing the Appeal as dismissed and confirming the impugned order.

It has been stated in the petition that the Appeal was filed challenging the order passed by the commissioner u/s 7A of the EPF & MP Act on the ground that the inquiry was conducted in respect of the salary paid to the international workers and the other allowances paid to the employees. But the commissioner while passing the impugned order did not consider the legal grounds taken and the argument advanced. Those points were canvassed in the appeal before this Tribunal. Apart from that, several other grounds were also taken by the appellant challenging the legality of the impugned order. But this Tribunal while passing the final order omitted to consider the

stand taken by the appellant with regard to the allowances taken in to consideration by the commissioner for PF contribution though the same were not universally paid. Not only that , during argument it was pointed out that while inserting the special provision in respect of international workers, it has not been provided by the legislature that the entire salary or gross salary of the said international worker shall be taken into consideration for calculating the PF contribution. On this elaborate argument was advanced and the appellant requested for production of the LCR and the matter was adjourned to 24.02.2020. After that date the appeal suffered en block adjournment due to COVID lock down and finally the final order was pronounced on 08.03.2021 dismissing the appeal. Hence, there crept into some error in the final order which need to be rectified in exercise of the power laid u/s 7L2 of the Act. And the final order passed be amended.

Copy of the petition was served on the Respondent's counsel who filed a written objection and advanced his argument opposing the petition filed u/s 7L(2) of The Act.

On behalf of the applicant it is submitted that the scope of Review provide u/s 7L(2) is wide and by exercise of power under that provision the Tribunal can rectify any mistake committed during adjudication.

In his reply the learned counsel for the opposite party submitted that the scope of Review u/s 7L(2) is limited to correction of errors which is apparent on the face of the record. But in his petition the petitioner has raised many questions touching the merit of the appeal, which cannot be entertained. If it is so done, the same will have the effect of re hearing of the appeal on merit by the tribunal for review of it's own final order passed, which is not permissible under law. He thereby argued for rejection of the application. Reliance has been placed by the opposite party/appellant in the case of **Food Corporation Of India, Dirba vs. RPFC, Bhatinda, decided by the Hon'ble High Court of Delhi in WPC5678/2013**, where in the Hon'ble court have held that the power of review can be exercised to rectify any factual mistake, calculation or error of like nature. The Tribunal, in the grab of this power cannot recall or reverse it's own order.

On hearing the submission advanced by the counsel for both the parties and perusal of the provision of sec 7L(2) it appears that the

tribunal within a period of 5 years from the date of the order is empowered to rectify any mistake apparent from the record by amending the order passed. But the provision never empowers the Tribunal to rehear the matter on merit when some points are re canvassed after disposal of the appeal. In view of the stand taken by the appellant/applicant in the petition, it is clear that the petitioner wants rehearing of the disposed of appeal, which is not permissible under the scope and ambit of the law laid u/s 7L(2) of the Act.

Be it stated that the provision for rectification of an order, stems from the fundamental principle that justice is above everything, the power for review is an exercise to remove the error and not for disturbing the finality. In the present matter the Review prayed for ,if would be allowed , the same will have the effect of the Tribunal hearing an appeal against it's own order, which is not permissible under the provisions of sec 7L(2) of the EPF&MP Act.

The petition for review, filed by the appellant/applicant is held devoid of merit and rejected. Consign the record as per law.

Presiding Officer

**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-2/30/2022**

M/s. Ecogreen Envirotech Solutions Ltd.

Appellant

VS.

APFC-II, Gurgaon

Respondent

**ORDER DATED :-13/10/2022**

Present:- Shri Bhupesh Sharma & Shri J. R Sharma Ld. Counsels for the  
Appellant.

Shri Chakradhar Panda, Ld. Counsel for the Respondent.

This order deals with the admission of the appeal and prayer for an interim order of stay on execution of the impugned order. Registry has pointed out the delay in filing the appeal. But no petition containing prayer for condonation of delay has been filed.

Notice of the appeal being served adv C D Panda appeared on behalf of the Respondent and participated in the hearing for admission of the appeal.

On perusal of the record, memo of appeal and the note of the Registry, it is noticed that the impugned order was passed on 31.05.2022 and the appeal has been filed on 17.08.2022 i.e beyond the prescribed period of 60 days. However it has been filed within the

period of 120 days up to which the Tribunal can extend the period of limitation. The appellant, in the memo of appeal has stated that the order which was passed on 31.05.2022, was in fact received by the appellant establishment on 18.06.2022 hence the has been filed within the period of limitation from the date of knowledge. Copy of the speed post tracking report has been placed on record. Thus on consideration of the submission and documents, it is held that the appeal us in time. There are no other defects pointed out by the Registry and the appeal challenges the orders passed u/s 14B and 7Q of the Act. Hence the appeal is admitted.

The appeal has been filed by the appellant, a company engaged for waste management and it's client is South Delhi Municipal Corporation. It depends on the clearance of the Bills by the client, which very often gets delayed for various reasons. The company some times gets negative balance in the Bank Account causing delay in payment of salary as well as delay in compliance of the statutory deposits. The company had also suffered huge loss in the past few years. On receiving summon for the impugned inquiry, the AR for the establishment appeared before the commissioner and on 02.02.2022 and filed a written submission which was entered in the diary on 03.02.2022. The AR on subsequent dates appeared and participated in the inquiry and apprised about the mitigating circumstances behind the delay in remittance. But surprisingly the commissioner considered none of the submissions and passed the order which is devoid of any reason. Not only that the inquiry has been conducted for a long period i.e from 06/2017 to 12/2020 which includes the period during which all business activities had come to a halt on account of COVID related lock down. The commissioner while passing the impugned order grossly violated the circular dated 15.05.2020 issued by his own office directing not to take action for imposition of damage for delayed remittance during the COVID lock down period. With this the learned counsel for the appellant submitted that the order passed by the commissioner suffers from patent illegality and he has a strong case to argue. Unless the execution of the impugned order would not be stayed during the pendency of the appeal, serious prejudice shall be caused to the appellant. Learned Counsel for the appellant further submitted that the orders under challenge is a composite order and thus both be stayed pending disposal of the appeal.

The learned counsel for the Respondent in his reply submission argued on the legislative intention behind the beneficial legislation. He also pointed out that the appellant has taken the stand of financial difficulty behind the delay in remittance. The said ground in view of

several judicial pronouncements can not be accepted as a mitigating circumstance and the commissioner has rightly rejected the submission of the establishment made during the inquiry. He also submitted that the orders having been separately passed cannot be treated as composite orders and the appeal in respect of the order passed u/s 7Q being not appealable be rejected.

On hearing the submission of the learned counsels an order need to be passed on the prayer for interim stay on execution of the order.

There is no dispute on facts that remittance has been made after considerable delay and the respondent too initiated the inquiry after lapse of a very long period. But the appellant has offered an explanation of it's bonafides behind the delay in remittance. On hearing the argument advanced by the counsel for the appellant factors which appear for considered at this stage are the period of default and the amount of damage levied. At the same time as decided by the Hon'ble High Court of Bombay in the case of **MorirokuUt India Pvt. Ltd vs. Union Of India reported in 2005SCCpage1 and in the case of Escorts Limited and another vs. Union Of India reported in 43(1991) DLT 207** the courts and tribunals are obliged to adhere to the question of undue hardship when such a plea is raised before it.

In this case the period of default as seen from the impugned order is more than four years and the amount of damage assessed is equally big. Thus on hearing the argument advanced, it is felt proper and desirable that pending disposal of the appeal, the said amount be protected from being recovered from the appellant

Hence it is directed that there would be an interim stay on the execution of the impugned order pending disposal of the appeal. But the said interim order can not be unconditional. The appellant is directed to deposit 25% of the assessed amount of damage through challan within 4weeks from the date of communication of this order as a precondition for stay pending disposal of the appeal. It is made clear that there would be no stay on the interest assessed by the commissioner as no opinion can be formed at this stage whether it is a composite order or not. Put up after four weeks i.e on 21.11.2022 for compliance of the direction. Respondent is directed not to take any

cohesive action for recovery in respect of the impugned order passed u/s 14 B of the Act till the next date.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208 ROUSE  
AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

**Appeal No. D-2/11/2021**

M/s Adobe System India Pvt. Ltd.

Appellant

Through:- Shri Gulshan Chawla, Sh. Varun Lamba & Sh. Abhimanyu Chopra,  
Ld. Counsels for the Appellant.

Vs.

RPFC, Noida

Respondent

Through:- Shri S. N. Mahanta, Ld. counsel for the Respondent.

**ORDER DATED :-13.10.2022**

Perusal of the record shows the compliance of the order dated 17.05.2021 has been made by the Ld. Counsel for the Appellant as an FDR amounting to Rs. 12,52,486/- stands deposited with the registry of this Tribunal (VDR-136, dated 29.11.2021).

Accordingly, the present appeal stands admitted for hearing and there shall be stay on operation of the impugned order till finalization of the appeal. List the matter on 21.11.2022 for filing reply to the appeal by the Ld. Counsel for the Respondent.

Further, the Further, the Ld. Counsel for the Appellant pressed his application dated 13.10.2022 for adding the appearance of Sh. Varun Lamba & Sh. Abhimanyu Chopra on behalf of the Appellant in the order dated 11.05.2021 & 17.05.2021.

Perused the record and the application filed by Sh. Gulshan Chawla, the Ld. Counsel for Appellant and accordingly it is ordered to make necessary corrections in the order dated 11.05.2021 & 17.05.2021 upto the following extent: -

The line, "*Sh. Gulshan Chawla, Ld. Counsel for the respondent*"

be read as

"*Shri Gulshan Chawla, Sh. Varun Lamba & Sh. Abhimanyu Chopra, Ld. Counsels for the Respondent*".

**(Presiding officer)**



**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208  
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

**Appeal No. D-2/27/2022**

M/s. IL & FS Engineering & Construction Company Ltd. Appellant

Through:- Shri S.K. Gupta, Ld. Counsel for the Appellant.

Vs.

RPF, Gurugram Respondent

Through:- Ms. Asha Gopalan Nair, Ld. Counsel for the Respondent.

**ORDER DATED :-13.10.2022**

The Ld. Counsel for the Appellant filed an affidavit along with a prayer to extend the time limit for complying with the directions dated 29.08.2022 passed by this Tribunal. Taken on record.

Heard both the counsels. Accordingly, list the matter on 21.11.2022 for reporting compliance. Interim orders to continue till next date of hearing.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208  
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

**Appeal No. D-2/29/2022**

M/s. IL & FS Engineering & Construction Company Ltd. Appellant  
Through:- Shri S.K. Gupta, Ld. Counsel for the Appellant.

Vs.

RPFC, Gurugram Respondent  
Through:- Ms. Asha Gopalan Nair, Ld. Counsel for the Respondent.

**ORDER DATED :-13.10.2022**

The Ld. Counsel for the Appellant filed an affidavit along with a prayer to extend the time limit for complying with the directions dated 29.08.2022 passed by this Tribunal. Taken on record.

Heard both the counsels. Accordingly, list the matter on 21.11.2022 for reporting compliance. Interim orders to continue till next date of hearing.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208  
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

**Appeal No. D-2/09/2022**

M/s. Xcelsolve Solution Pvt. Ltd. 1 Appellant

Through:- Shri S.K. Gupta, Ld. Counsel for the Appellant.

Vs.

RPFC, Gurugram Respondent

Through:- Sh. Rajesh Kumar, Ld. Counsel for the Respondent.

**ORDER DATED :-13.10.2022**

More time prayed for filing the reply by the Ld. Counsel for the Respondent. Time granted. List the matter on 21.11.2022 for filing the reply.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208  
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

**Appeal No. D-2/17/2022**

M/s. Egelhof Controls India Pvt. Ltd. 1 Appellant

Through:- Shri Anshul Goel, Ld. A/R for the Appellant.

Vs.

RPFC, Gurugram Respondent

Through:- Sh. S.N. Mahanta, Ld. Counsel for the Respondent.

**ORDER DATED :-13.10.2022**

Pleadings in this matter are completed as the Ld. A/R for the Appellant does not want to file the rejoinder. Accordingly, list the matter on 15.12.2022 for final arguments.

Presiding Officer