

**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-2/20/2022**

M/s. R.B Enterprises

Appellant

VS.

EPFO- Faridabad, Haryana

Respondent

**ORDER DATED:- 27/09/2022**

Present:- Ms. Shivani Goel, Ld. Counsels for the Appellant.  
Shri Satpal Singh, Ld. Counsel for the respondent.

This order deals with the applications filed by the appellant for condonation of delay for admission of the appeal. Notice of the appeal being served on the Respondent the learned advocate Sh. Satpal Singh appeared and participated in the hearing by filing written objection to the delay condonation petition.

Perusal of the note of the Registry reveals that the impugned order u/s 7A was passed 31/03/2017 and the captioned appeal was filed on 30/05/2022 i.e beyond the prescribed period of limitation. The appellant has admitted in the petition that the appeal was filed after a long delay since the date of order, though the EPF Appellate Tribunal (procedure) Rule provides the appeal 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 by the Tribunal in appropriate cases.

The learned counsel for the appellant submitted that the establishment was diligently attending the proceeding, when the documents and records asked for were submitted. The AR for the establishment requested for supply of the report of the EO which is the basis of the inquiry. But the commissioner instead of supplying the copy of the EO report went ahead and passed in interim order u/s 7A of the Act without identifying the beneficiaries. On receipt of the said interim order the appellant establishment sought for a legal opinion and advised filed a review application invoking the provisions of sec 7B of the Act. But the said review application was rejected without proper consideration. Being aggrieved the present appeal has been filed. He also submitted that there is no deliberate delay or any malafide intention behind filing of the appeal after the prescribed period. By placing the copies of the legal opinion received on record, he submitted that the delay if would not be condoned the valuable legal right of the appellant would be defeated.

The learned counsel for the Respondent in his reply has stated that the order u/s 7A was passed on 31/03/2017 and the review application filed u/s 7B was disposed of by order dated 31/10/2018. In both the proceedings the appellant establishment was actively participating. The said orders having not been challenged within the prescribed period of limitation have attained finality. More over the

appellant has miserably failed to explain the delay and the ground that for the legal opinion it was waiting for the final order to be passed is not worthy of acceptance. He also submitted that no interim order as alleged by the appellant was ever passed during the inquiry.

Perusal of the impugned order no way shows that the same was an interim order. It is not the case of the appellant that the proceeding was held *ex parte*. Though the appellant is required to explain each and every day of delay in filing the appeal, here is a case where the appellant has offered the explanation that for the interim order passed the establishment was advised to wait for the final order. The said explanation seems not worthy of acceptance for condonation of the inordinate delay in filing the appeal.

Furthermore the Hon'ble High Court of Delhi in the case of **Saint Soldier Modern Sr. Secondary School vs. RPFC reported in 2014(18) SCT609** have held that the EPF&MP Act is a special legislation and when the said Act prescribes limitation for 60 days which can be extended by the Tribunal for a further period of 60 days no further extension of time can be allowed by the Tribunal beyond that period. It was similarly held by the Hon'ble S C in the case of **Ever Green Senior Secondary School vs. PO EPFAT, 2015(4) SCT 57**. Hence keeping the principle decided by the Hon'ble courts and since the explanation offered by the appellant do not appear convincing on the face of the order under challenge, it is held that the appellant has not successfully explained the delay that occurred in filing the appeal and the same cannot be condoned.

The appeal is not admitted and dismissed as barred by Limitation. 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-2/26/2022**

M/s. Hitrac Manpower Services Pvt. Ltd. Appellant

VS.

RPFC-I, Gurugram (W) Respondent

**ORDER DATED:- 27/09/2022**

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

Shri Abhik Mishra, Ld. Counsel for the respondent.

The appeal challenges order 18.05.2022 passed by the RPFC Gurugram u/s 14B of the EPF&MP Act, wherein the appellant has been directed to deposit Rs 56,88,901/- as damage for delayed

remittance of EPF dues of it's employees for the period 10/10/2018 to 10/02/2021.

Notice being served on the respondent, learned counsel for the respondent Sh. Abhik Mishra appeared and participated in the hearing on admission and the prayer for grant of stay on the execution of the impugned order.

Perusal of the record and office note of the registry reveals that the impugned orders was passed on 18.05.2022 and the appeal was filed on 18.052022, i.e within the period of limitation. There being no other defect pointed out, the appeal is admitted.

In the appeal, prayer has been made for an interim order of stay on the execution of the impugned order pending disposal of the appeal.

The appellant has stated that the impugned order is illegal and arbitrary since the commissioner had failed to appreciate the mitigating circumstances pointed out during the inquiry by the establishment. It has also been stated that the appellant establishment which supplies skilled and unskilled man power to different establishments is dependent on the clients for clearance of the Bills and a huge amount is outstanding. However the appellant establishment was very careful toward compliance of it's statutory obligations. But for non clearance of bills of payment by clients, there was some delay in deposit of the PF dues. On receipt of the notice for inquiry, the authorized representative of the establishment appeared before the commissioner and raised dispute with regard to the mitigating circumstances. It was pointed out that in order to meet the exigencies the establishment had to incur loans from different financial establishments. But none of the oral and written submission

of the establishment were considered by the commissioner. The commissioner without assigning reason for levying damage at the maximum rate passed and ignoring it's own departmental circular for allowing relaxation in imposing damage for the lock down period, passed the impugned order in a fanciful manner as a part of the inquiry period covers the lock down period. Thus it is argued that the appellant has a strong arguable case in the appeal. Unless the impugned order would be stayed, the relief sought in the appeal would become illusory.

In his reply the learned counsel for the respondent submitted that the impugned order has been passed imposing damage for delay in remittance which spans over more than two and half years depriving the employees of their lawful rights. He also submitted that any order of stay on the execution of the order shall be prejudicial to the employees and defeat the purpose of the legislation. However the learned counsel for the respondent did not dispute the stand of the appellant that the assessment of damage is in respect of the lock down period as a part.

The reply submission made by the appellant is that the establishment should not have been saddled with the damage when none of it's submissions were considered by the respondent and the order was passed in a mechanical manner without any finding on mensrea.

On hearing the submission made by both the counsels on the prayer for interim stay, it is found that a part of the inquiry period is the lock down period and the Respondent Department has issued a guideline to extend relaxation for the said period while assessing and

imposing damage. More over the commissioner has not rendered any finding on the mensrea of the appellatant behind the delay in remittance.

In this case the period of default as seen from the impugned order spreads over two and half years. But the damage levied is huge.

The legal and factual aspects pointed out in the grounds of the appeal no doubt make out a strong arguable case for the appellatant. Hence, if there would not be a stay on the execution of the impugned order passed u/s 14B of the Act, certainly that would cause undue hardship to the appellatant. But at the same time it is held that the stay shall not be unconditional. It is thus directed that the appellatant shall deposit 30 % of the assessed damage, as a pre condition for grant of stay till disposal of the appeal, within six weeks from the date of communication of the order, failing which there would be no stay on the impugned order passed u/s 14B. The said amount shall be deposited by the appellatant by way of Challan. Call on 21.11.2022 for compliance. The interim order passed earlier shall continue till then.

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-2/13/2022**

M/s. AA Foundation for Safety. Appellant  
Through Sh. S.P Arora & Sh. Rajiv Arora Ld. Counsel for the Appellant

Vs.

RPFC-Raipur (Chhattisgarh) Respondent  
Through Sh. B.B Pradhan, Ld. Counsel for the Respondent

**ORDER DATED :- 27.09.2022**

Arguments on admission as well as application filed u/s 7 O of the EPF & MP Act, 1952 heard and concluded. List the matter on 23.11.2022 for pronouncement of order on the same. Meanwhile, the interim orders to continue till next date of hearing.

**Presiding Officer**