

**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM LABOUR COURT No.-2 DELHI**

Appeal no. D-2/28/2024

M/s. Widmans LaboratoryAppellant

Through:- Ms. Neetu Mishra, Ld. counsel for the appellant.

Vs.

APFC/ RPFC, GurugramRespondent

Through:- Sh. Chakradhar Panda, Ld. counsel for the respondent.

Order Dated:- 12.06.2025

The appellant has assailed the order dated 17.10.2023 passed **under section 14B and 7Q** of the **Employees Provident Fund and Misc. Provisions Act, 1952 (Hereinafter referred as 'the Act')** whereby the respondent authority assessed an amount of **Rs. 532655/-** (Rupees Five Lakh Thirty Two Thousand Six Hundred Fifty Five Only) towards liability under section 14B and **Rs.294100/-** (Rupees Two Lakh Ninety Four Thousand One Hundred only) under section 7Q of the Act.

It is the stand of the appellant that he has been regularly depositing the PF contribution in respect of the covered employees in due time since coverage. The appellant is a proprietor firm, engaged in the profession of providing medical test and medical check-ups, and it has been regularly depositing its PF contribution. It is further submitted by the appellant that heavy loss was caused due to non-availability of regular work, and it gradually reduced the strength of employees and consequently delay occurred in depositing the PF dues, which was neither intentional nor wilful but on account of the financial constraints and therefore, present establishment could not be able to deposit

the PF contributions in due time. It is further submitted that the establishment suffered heavy loss during the Covid-19 period, the establishment's work suffered badly and the establishment couldn't meet out the minimum expenses for running the business and thus, employees were paid their salaries belatedly. Moreover, proceedings under section 14B and 7Q of the Act were conducted virtually ex-parte, without providing a proper opportunity to the appellant and without appreciating the reasons for delay. On this ground, the appellant prays that the order dated 17.10.2023 passed by the respondent be set aside and recalled.

The respondent herein filed a reply of the appeal and took various preliminary objections. It was stated that the appeal filed by the appellant deserves to be dismissed, as the same has been filed against a well-reasoned order. The appellant has miserably failed to disclose any cause of action giving rise to the instant appeal; hence the same is devoid of any merit and is liable to be dismissed. It is further submitted that the appellant admitted the delay in depositing the dues, and no plausible reason was given either to reduce or waive the damages.

Moreover, on 03.10.2023, Sh. Amit Bishnoi, Director of the establishment appeared and requested some time to submit the records, and the matter was adjourned to 17.10.2023. On that date, he appeared and submitted that he had nothing to counter the claim of the department and assured to pay the PF dues.

The respondent relies upon a judgment passed by the Hon'ble Supreme Court of India in **Arcot Textile Mills Limited vs. Regional Provident Fund Commissioner and ors. (2013/16/SCC-I)** where it was held that:

When a composite order under section 14-B and 7Q is passed together, such an order shall be appealable under section 7-I of the EPF Act, but if for some reason the authority chooses to pass an independent order under section 7-Q, the same is not appealable.

The respondent also relied upon a judgment of **Organo Chemical Industries vs. Union of India, AIR 1979 SC 1803**) where it was held that financial crisis is not a valid ground to escape from PF contributions. Lastly, the respondent prayed for dismissal of the present appeal.

I have heard the arguments presented by both parties, perused the records and gone through the impugned order. Before proceeding further, language of section 14B and 7Q of the Act is required to be reproduced herein:

14B. Power to recover damages.—Where an employer makes default in the payment of any contribution to the Fund 3[, the 2[Pension] Fund or the Insurance Fund] or in the transfer of accumulations required to be transferred by him under sub-section (2) of section 15 4[or sub-section (5) of section 17] or in the payment of any charges payable under any other provision of this Act or of 5[any Scheme or Insurance Scheme] or under any of the conditions specified under section 17, 6[the Central Provident Fund Commissioner or such other officer as may be authorised by the Central Government, by notification in the Official Gazette, in this behalf] may recover 7[from the employer by way of penalty such damages, not exceeding the amount of arrears, as may be specified in the Scheme:] 8 [Provided that before levying and recovering such damages, the employer shall be given a reasonable opportunity of being heard]: 9 [Provided further that the Central Board may reduce or waive the damages levied under this section in relation to an establishment which is a sick industrial company and in respect of which a scheme for rehabilitation has been sanctioned by the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies

(Special Provisions) Act, 1985, subject to such terms and conditions as may be specified in the Scheme.]

7Q. Interest payable by the employer.—The employer shall be liable to pay simple interest at the rate of twelve per cent. per annum or at such higher rate as may be specified in the Scheme on any amount due from him under this Act from the date on which the amount has become so due till the date of its actual payment: Provided that higher rate of interest specified in the Scheme shall not exceed the lending rate of interest charged by any scheduled bank.]

Record perused. In section 14B of the Act, the word 'may' has been used while dealing with the damages on belated payments of employee contributions by an employer. Though, there were earlier pronouncements, which held that financial difficulty is no reason to waive the damages. However, later on, in exceptional circumstances, such as Covid-19 pandemic, the Ministry itself issued notifications regarding waiver the damages. Recently, it has been held that financial difficulty must be taken into consideration.

The objective of the EPF Act is that it is a social legislation that serves the interest of employees, its main purpose is to generate employment, not to drown the businesses, which could lead to job losses. Therefore, a balance has to be kept in mind while deciding the imposition of damages.

Coming to the material facts of the present case, a notice was issued to the appellant by the respondent on 24.08.2023, enclosing the statements showing the delay in contributions. As per the statement, the contribution of June 2018 was deposited on 16.02.2019 after a delay of 216 days. Similarly, contributions of July, 2018 to January 2019 were deposited after substantial delays, and the delays continued in the following months.

In the entire appeal, the appellant failed to provide any explanation as to why the damages were not levied. There was a continuous default in payment of contributions by the appellant, and nothing was brought on record to indicate that there was any financial hardship. Moreover, the appellant is a pathological laboratory, a sector which remained in high demand even during the Covid-19 period. The appellant didn't suffer any loss; rather, it likely generated substantial profits during that time.

As per record, the appellant was given sufficient opportunity. Therefore, its pleas are not tenable.

In view of the above discussion, the appeal, being devoid of any merit, stands dismissed. The record is consigned to the record room.

Sd/-

(Atul Kumar Garg)
Presiding Officer