

**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM
LABOUR COURT/ EPFAT, No. 1 DELHI**

D-1/29/2025

M/s Mahagun India Pvt. Ltd. Vs. APFC/RPFC Delhi East

Present: Sh. Prakash Kumar, Id. Counsel for the appellant.
Sh. K.K. Jha, Id. Counsel & Sh. Sunil Ranjan, A/R for the
Respondent.

Order dated-01.09.2025

Appellant counsel has pressed his application filed **under Section 70 of the EPF & MP Act, 1952 (hereinafter referred as the Act)**. He stated that his plea was not considered by the respondent while passing the order. The respondent while passing the order did not appreciate that the real estate business of the appellant has suffered a huge loss during the Covid-19 pandemic period. The establishment of the appellant was unable to get his amount running into crores from the government department and other creditors. Because of this, the appellant has reached in absolute cash crunch and he was unable to do its business and unable to give salaries to its employees. He further stated that the respondent has not considered the balance sheet of the appellant and he has also not considered the list of 116 contractors who were having their own EPF code. He has also submitted that as and when he had received some money from its customers, he had immediately deposited an amount of Rs.40,06,565/- with the respondent department. Submitting his averments, Id. counsel for the appellant has prayed to allow his application for waiver.

In response to the said application Id. counsel for the respondent has filed his written reply relying upon the judgment passed by Supreme Court in **Hindustan Times Limited Vs. Union of**

India and Others [AIR 1998 SC 688] wherein it is held that defence of power cut, financial problems relating to other indebtedness or the delay in realization of amounts paid by the cheques or drafts are not justifiable grounds for the employer to escape liability. Submitting these averments, Id. counsel for the respondent had prayed to dismiss the application. Before proceeding further provision of section 7O of the Act is reproduced herein:

7-O. Deposit of amount due, on filing appeal.—No appeal by the employer shall be entertained by a Tribunal unless he has deposited with it seventy-five per cent. of the amount due from him as determined by an officer referred to in section 7A:
Provided that the Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this section.

From the above provision, legislature has made it compulsory for pre-deposit of 75% of the amount determined by the respondent under Section 7 A of The Act. However, in the same breath, legislature has made the proviso and conferred wide discretionary power to this tribunal either to waive or reduce the amount.

I have heard the arguments at bar and perused the record. Appellant harped his case on the premise that he has suffered a huge loss during the covid-19 pandemic as such he was unable to get huge amount running into crores to get it credited in the members of the PF. His further plea is that the respondent has not considered the case of excluded employees as well as the cases of the workers employed by the contractors having independent code.

So far so the first plea is concerned that is not tenable because the financial difficulty may be a defense in respect of the assessment

made by the respondent u/s 14B for belated remittances. However, considering the fact, the appellant has also raised the plea of excluded employees as well as workers employed by independent contractors having separate code, appellant is directed to deposit the 40% of the assessed amount within six weeks from the date of the order by way a FDR favoring Registrar CGIT prepared initially for a period of one year having auto renewal mode thereafter. In the meanwhile, interim orders to continue. Put up on 27.10.2025 for reporting compliance.

Sd/-

Atul Kumar Garg
(Presiding Officer)