

**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
NEW DELHI**

Appeal no. D-1/74/2024

M/s. Ansal Housing Ltd. Vs. APFC/RPFC, Delhi Central

Counsels:

For Appellant:- Sh. S.K. Khanna, Id. counsel.

For Respondent:- Sh. Pradeep Kumar Shukla, Id. counsel.

Order Dated:-15.09.2025

ORAL

1. Appellant has pressed his prayer for the stay of the execution of the order dated 22.10.2024 under section **14 B & 7 Q of the EPF & MP Act, 1952 (hereinafter referred as 'the Act')** wherein the respondent has assessed an amount of Rs. 53,48,250/- as damages as well as Rs. 31,78,733/- as interest. Appellant has stated that the orders passed by the respondent suffer from procedural infirmity as the respondent has passed non-speaking, arbitrary and perverse order mechanically without assigning reason to arrive at the finding that the facts and circumstances of the case justify the levy of penalty. He has submitted that respondent has committed judicial impropriety in not following the judgment of the **Hon'ble Supreme Court in Kranti Associates Pvt. Ltd. & Ors. Vs. Masood Ahmed Khan & Ors. MANU/SC/0682/2010** wherein it is held that:-

51. Summarizing the above discussion, this Court holds:

a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

b. A quasi-judicial authority must record reasons in support of its conclusions.

c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

g. Reasons facilitate the process of judicial review by superior Courts.

h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

j. Insistence on reason is a requirement for both judicial accountability and transparency. k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism. l. Reasons

in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).

n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to [Article 6](#) of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

2. The respondent has passed the order in derogation of the law settled by the **Calcutta High Court in RPFC-II Vs. Hoogly Mills Company Limited and Another; 2022 SCC Online Cal248** where the word 'may' has been used in Section 14 B of the Act. This contention has not been considered.

3. It is further stated by the appellant that so far so the order passed u/s 7 Q of the Act is considered, the same has been passed without any authority of law. The Law does not empower anybody to levy the interest.

4. Respondent counsel has opposed the prayer stating that the order passed under Section 7Q of the Act is not appealable, hence, the respondent be asked to deposit the amount assessed u/s 7 Q of the Act. The amount of interest has to be deposited in the account of the subscribers. The respondent organization is under obligation to deposit the interest. So far so, order passed u/s 14 B is concerned, respondent counsel has left the same to the discretion of this tribunal.

5. I have heard the arguments and perused the record. Before parting any opinion on the issue, it is necessary to reproduce the section 14 B as well as Section 7 Q of 'the Act':-

Section 14B Power to recover Damages-Where an employer makes default in the payment of any contribution to the Fund [, the [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 [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, [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:] [Provided that before levying and recovering such damages, the employer shall be given a reasonable opportunity of being heard]:

[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.]

7 Q 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.]

6. Rate of levy of damages is given in para 32 A of the Employees' Provident Funds Scheme, 1952 and subsequent para 8A of the Employees' Deposit Linked Insurance Scheme, 1976 and Para 5 of the Employees' Pension Scheme, 1995 which have empowered the CPFC or any such authorised officer to recover from the employer by way of penalty, damages at the rate given below:-

<i>S.No.</i>	<i>Period Of default</i>	<i>Rate of damages (percentage of arrears per annum)</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>(a)</i>	<i>Less than 2 months</i>	<i>Five</i>
<i>(b)</i>	<i>Two months and above but less than four</i>	<i>Ten</i>

D-1/74/2024(Prayer for granting stay)

M/s. Ansal Housing Ltd. vs. APFC/RPFC Delhi Central

	<i>months</i>	
<i>(c)</i>	<i>Four months and above but less than six months</i>	<i>Fifteen</i>
<i>(d)</i>	<i>Six months and above</i>	<i>Twenty five</i>

7. Now, coming to the present appeal, so far so the contents of Section 14 B of the Act, is concerned, the word ‘may’ has been used in the Act. It is the respondent who had often take the view that he has no discretion to reduce the damages from the rate prescribed in the scheme, is of little value. If that is considered to be true, the legislation would have never used the word ‘**may**’. This proposition is also fortified with the facts that when the department during the **Covid-19 had exempted the establishments from levy of damages** imposed due to belated remittances or introduction of **‘Para 82A – Special provision in respect of Employees’ Enrollment Campaign’ when the damages is levied @One Rupee Per Annum.** If the discretion is not vested with the respondent department, the department could not do so.

8. So far so, the plea of appellant counsel that the respondent has not authorized any authority to pass an order u/s 7Q of the Act is concerned, it has to be seen at the time of final disposal. In the circumstances discussed above, the appellant is directed to deposit at least the interest component which is to be deposited in the subscribers account. In case, this tribunal reaches to an otherwise conclusion at the time of final disposal of this appeal, then, whole amount shall be directed to refund.

9. With this the prayer of the appellant to grant stay is allowed to such an extent that there is a stay on recovery subject to deposit of Rs. 31,78,733/- by way of **FDR** favouring **‘Registrar CGIT’** initially for a period of one year having auto renewal mode, within six weeks from today. It is made clear that if the appellant fails to comply with the condition laid down by this tribunal within the stipulated time frame, the stay shall not be in operation and the respondent shall have the liberty to execute the order as per rules. Put up

for reporting compliance by appellant as well as filing of reply to the appeal by Id. Counsel for the respondent on 12.11.2025. In the meanwhile, interim orders to continue till next date of hearing.

Sd/-
Atul Kumar Garg
(Presiding Officer)