

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

Appeal no. D-1/44/2023

M/s. Sumitra International

.....Appellant

Through:- Sh. Rajiv Shukla, Ld. counsel for the appellant.

Vs.

APFC, Delhi (West)

.....Respondent

Through:- Ms. Swati Surhatia, Ld. counsel for the respondent.

Order:- Oral

Order Dated:- 19.09.2025

The appellant has pressed its application under section 7-O of the **Employees Provident Fund and Misc. Provisions Act, 1952 (Hereinafter referred to as 'the Act')**, praying for waiver of the condition of pre-deposit under section 7-O of the Act. It has been submitted that the appellant was provided with only two EO reports dated 17.12.2021 and 11.03.2022, but was not supplied other three reports, dated 16.12.2018, 20.06.2019 and 21.11.2019 which formed the basis of initiation of the impugned proceedings. It is further its case that the respondent failed to appreciate that the appellant had deposited the complete PF dues of one of the complainants, Smt. Manju, which is evident from the passbooks of the members. Despite this, the EO and the competent authority calculated again calculated the PF dues of the said complainant while passing the impugned order. It is further submitted that the complete records, including Form 11 of the excluded employees for the relevant impugned period, were not considered by the EO while assessing the dues. It has, therefore, submitted that till the disposal of the appeal, the condition of pre-deposit of the amount be waived and the appeal be heard on merits.

The respondent, in reply, has opposed the application, contending that the appellant has not come with clean hands. It is submitted that

the appellant already deducted the employee's share from the wages of complainant employees towards Provident Fund but failed to deposit the same with the department. It is further pointed out that a complaint under sections 406, 409 IPC has already been filed by the department with the police authorities and the same is pending for disposal for more than 4 years. Despite being provided a number of opportunities, the appellant failed to produce details of employees, appointment letters, form-XI etc. before the competent authority. The respondent has placed reliance on the judgment passed by the Hon'ble Supreme Court in ***Hindustan Steel Works vs. Regional Provident Fund Commissioner-I & Anr. (W.P. no. 26081 (W) 2015)***, wherein it was held as under:

"It is now a well-settled principle of Common Law that a wrongdoer cannot take advantage of his own wrong. The above proposition, albeit under different other statutes, has been recognised by the Hon'ble Supreme Court of India".

I have heard the arguments advanced by both parties and perused the record. Before proceeding further, section 7-O of the Act is required to be 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, it is evident that before entertaining an appeal, the appellant is required to deposit 75% of the assessed amount under section 7-O of the Act. Further, the proviso below has given wide discretion to the Tribunal to either reduce the amount or waive the condition of pre-deposit if the reasons appear to be just and proper.

The appellant's case rests on three premises, i.e., E.O. reports were not furnished, dues of the complainant Smt. Manju were not adjusted, and certain excluded employees whose form-XI had been submitted, were not considered. Even assuming that all these pleas are correct, the plea for total waiver is not tenable.

Considering the totality of circumstances, the appellant is directed to deposit an amount of Rs. 6,00,000/- out of the assessed dues.

Accordingly, the appellant shall deposit the said amount within six weeks from the date of order by way of a FDR favoring 'Registrar CGIT' initially for a period of one year having auto renewal mode thereafter.

Let this matter be listed on 14.10.2025 for reporting compliance and filing of reply to the main appeal.

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Residing Officer