

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

**Appeal no. 22(4) 2011**

**M/s. Hotel De-Romana**

.....Appellant

Through:- Sh. S.K. Gupta, Ld. counsel for the appellant.

Vs.

**APFC, Delhi.**

.....Respondent

Through:- Sh. Narender Kumar, Ld. counsel for the respondent.

**Order Dated:- 20.08.2025**

The appellant is a covered establishment under the provisions of the **Employees' Provident Funds & Misc. Provisions Act, 1952 (Hereinafter referred to as 'the Act')**. It has assailed the order dated 29.10.2010 passed under section 14-B and 7-Q of the Act, whereby the respondent calculated the damages of Rs. 1,24,134/- and interest of Rs. 1,06,877/-. The said order has been challenged on several grounds, *inter-alia*, that it is *prima-facie* contrary to law and facts of the case; the appellant didn't receive the damages statement for the alleged period; he was not given reasonable opportunity to represent his case; the respondent has been functioning in "dual capacity" as both prosecutor and judge; there is a misuse of jurisdiction, power and authority on the part of respondent and that there is a non-application of mind on the part of the respondent while passing the impugned order.

It is further the case of the appellant that the Central Provident Fund Commissioner, EPFO, New Delhi, issued a circular no. PGcell/3(3)P6/dam dated 29.05.1990 to all Regional/Assistant Provident Fund Commissioner and vide which it was clearly mentioned that the damages under section 14B also include the

interest chargeable under 7-Q of the Act. Accordingly, it has been prayed that the impugned order dated 29.10.2010 be set aside.

In response, the respondent filed a reply taking various preliminary objections and narrating the objects of the Act. It is further submitted that the appellant failed to pay the provident fund contribution within the stipulated time for the periods 10/98, 03/99, 03/00, 03/01, 03/07 and 01/08. Sufficient opportunities were given to the appellant, but it failed to deposit the contributions. Therefore, the respondent has prayed that the appeal be dismissed with costs.

I have heard the arguments advanced by both parties. On 13.08.2025, Enforcement Officer Sh. Mahendra Meena appearing on behalf of the respondent stated before this tribunal that the Trial Court Record pertaining to the present appeal is not traceable. The appellant took the plea that notices of damages had not been served upon it. Moreover, in the present case, the delay that respondent has noted is sporadic delay, not of regular delay. According to the alleged notices and the order under appeal, the appellant was found to be negligent in depositing the dues for the period 10/98, 03/99, 03/00, 03/01, 03/07 and 01/08. In between, there is a long span of time during which contributions were deposited, and no default has been noted by the respondent.

In the absence of the notices containing the alleged defaults, this tribunal is not in a position to determine whether any default was actually committed. Even the respondent has not brought any evidence in regard to the dates of deposit of the contributions, which should have been within its possession. If the dates of deposit of the contributions were brought on record, then only, this tribunal would have been in a position to determine whether any default was committed.

In the absence of the Trial Court Record, the appellant has succeeded in the appeal. Consequent thereto, the order passed by the respondent dated 29.10.2010 for levying the damages under

section 14B and interests under section 7Q of the Act is set-aside and recalled. The record of the appeal is consigned to the record room.

Atul Kumar Garg  
(Presiding Officer)