

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

Appeal no. D-1/07/2024

M/s. Uptrash VidyalayaAppellant
Through:- Sh. Vivek Kumar, Ld. Counsel for the appellant.

Vs.

APFC/RPFC, Gurugram EastRespondent
Through:- Ms. Santwana Aggarwal, Ld. Counsel for the respondent.

Order Dated:- 05.12.2025

This order shall dispose of an application filed by the appellant under section 7-O of the **Employees Provident Fund and Misc. Provisions Act, 1952** (Hereinafter referred to as 'the Act'), seeking waiver of the condition of pre-deposit under section 7-O of the Act. The appellant has stated that the respondent failed to apply its judicial mind and passed an impugned order dated 31.08.2023 in ignorance of facts and material available on record, therefore the order is liable to be set aside in the interest of justice. It is further stated that the order was passed in violation of settled law and the principles of natural justice, as the said order was passed ex-parte without giving the appellant an opportunity to represent its case or without issuing summons of the case. The appellant has further submitted that the assessment is based on mere presumption and that even the name of the complainant is not disclosed in the impugned order.

The respondent filed a counter-reply of this application. It opposed the prayer of the appellant narrating the provisions of section 7-O of the Act. The respondent submitted that despite several opportunities, the appellant did not cooperate in the proceedings, as such, it was constrained to pass the impugned order. Therefore, It contended that the application is devoid of merit, and the appellant

must deposit 75% of the assessed amount mandatory under section 70 of the Act, before the appeal can be entertained.

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 amount assessed under section 7A of the Act. Further, the proviso below has given wide discretionary power to this Tribunal to either reduce or waive the amount to be deposited under this section if the reasons appear to be just and proper.

From perusal of the impugned order, it appears that the proceedings were initiated on the basis of a complaint filed by the complainant Readymade Garments Export Employees' Union. However, the complainant didn't appear or cooperate in the proceedings despite a number of opportunities. It is also noted that the records maintained by the respondent had also been destroyed due to a fire accident.

Further, an individual filed a complaint against the appellant in the year 2022, calculating alleged dues on the basis of an earlier court order and other factors. He calculated a large amount of Rs. 47,08,405/- in respect of the months 05/2005, 10/2005, 11/2005, 12/2005, 01/2006, 03/2009, 03/2010, 04/2010, 05/2010, 06/2010, 11/2020, 12/2010, 01/2011, 02/2011, 11/2011, 12/2011, 01/2012 and 03/2012. The calculation is based on the premise that since contributions were

deposited in the previous month, contributions must be deposited for following months for the same employees.

The appellant, in its appeal, has narrated the factual background of multiple litigations between the appellant and the Government, where a number of orders were passed due to difference of the management with employees.

Considering the fact that the entire impugned order is based merely on the assumption that the deposits were made in previous month, so the appellant was duty bound to deposit the contributions in the following months also. It is a matter of fact that the record maintained by both the appellant and the respondent were destroyed due to fire incidents, therefore, the assessment itself becomes doubtful.

In view of the above facts on record, a case of total waiver is made out. Accordingly, the application stands disposed of. The interim order granted in favour of the appellant has become absolute till the finalization of the appeal.

Sd/-

Atul Kumar Garg
(Presiding Officer)