

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

300(4)2010

M/s Satyaguru Marvellous Creations vs. APFC/RPFC, Delhi.

Present: Sh. Nilesh Sawhney, Ld. Counsel for the appellant.
Sh. Manu Parashar, Ld. Counsel & Sh. Prateek Tyagi, A/R for
the respondent.

Order dated- 12.12.2025

1. Appellant has assailed the order dated 28.08.2008 passed by the respondent-1, whereby the respondent-1 assessed the dues under section 7-A of the **Employee's Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the Act")** to the tune of Rs. 4,43,633/- for the period 04/1998 to 11/1998.

2. He has assailed the said order stating that establishment, M/s Satyaguru Marvellous Creations, a partnership firm dealing in garment export business came into existence in the year 1996. There are two partners i.e. appellant and his brother Sh. Ravi Madaan. For the first time, respondent-1 visited the establishment in November, 1998 and asked the appellant to cover his establishment w.e.f. 01.04.1998, and a letter to this effect was given to the other partner Ravi Madaan. Thereafter, he had started to deposit the PF w.e.f. 01.12.1998. According to him, there were inimical relations with the partner, as evident from the litigation entered between them, and the partition decree was passed by the Hon'ble High Court. It was the other partner i.e. Ravi Madaan who had provided information to EPFO that 23 employees were employed, while in fact he was running the another firm at the same premises, as evident from the Local Commissioner's report. In fact, there was no employee. According to

appellant, employees were working in the said partnership firms and the appellant is the citizen of the U.K, as evident from the partnership deed. He had assailed the order on the ground that the respondent had taken the figures from the balance-sheet provided by the other partner and taking the item “job work” from the balance-sheet amounting to Rs. 17,32,263/- for the period 04/1998 to 11/1998 and assessed the 25% of the above said amount. He submits that the order is illegal and liable to be set-aside.

3. Respondent has filed the reply, taking several preliminary objections. Firstly, he had first narrated the object of the legislation i.e. **Employees’ Provident Funds & Miscellaneous Provisions Act, 1952** which provides social security to employees working in any establishment engaging 20 or more persons on any day. Provident Fund and other contributions have to be deposited by the employer by the 15th day of the next month in which the employees has worked in the establishment and the dues become payable to him. He also submitted that coverage letter was issued to the appellant establishment on 30.11.1998, asking him to enroll itself on 01.04.1998. Establishment was given several opportunities to establish its case. Order was forwarded to the establishment on 16.10.2008. So far as the merits are concerned, the respondent denied each and every averment.

4. Rejoinder has been filed by the appellant, where he denied the averments made in the reply of the respondent.

5. It is also important to mention here that the other partner Ravi Madaan is the Indian citizen, while appellant, Anil Madaan, is a citizen of U.K, as evident from the record. In spite of being the resident, no notice of recovery was sent to Ravi Madaan rather than it was Anil Madaan who had faced the wrath of the respondent by issuing the warrants of attachment and arrest thereafter.

6. It is also important to mention her that Tribunal had made the Ravi Madaan as respondent no. 4. Thereafter, it has come to knowledge that

Ravi Madaan was expired therefore, his wife Smt. Usha, Son Sh. Ansh Madan, and two daughters i.e. Smt. Jyoti Madan & Smt. Mini Madan have been impleaded as respondent no. 4.

7. Whole of the argument of the appellant is centered around the fact that the relation of him and his brother become strange and he was forced to file the partition suit in the High Court, which was resulted into decree in respect of the house situated at Sant Nagar, East of Kailash, New Delhi. Orders were passed in the year 2009 & 2010 by the Hon'ble High Court in the **CS(OS) No. 1184/2005**. His further case is that he is a U.K citizen and had nothing to do with the matter; therefore notice was issued to his brother Ravi Madaan. When respondent no. 1 first time visited the appellant's premises in November, 1998, a coverage letter was issued to the appellant establishment on 30.11.1998, asking him to enroll itself on 01.04.1998. His further case is that no employee has ever been examined by the respondent in support of his contention that he has been working there. When Ravi Madaan has started to deposit the contribution from December, 1998, then, it is the duty of the respondent to enquire from those employees from which they have been working. Moreover, his case is that respondent, in violation of his own circular **ACC/DL&UKICO-ord/83 dated 20.01.2020**, has taken the figure of 25% of the job work into consideration without identifying any worker. He has relied upon the judgment of **Builders Associations vs. UOI**, wherein it has been held by Hon'ble Supreme Court vide order dated 02.05.2016 that *during the process of inquiry conducted by the respondent organization, step will also be taken to identify the workmen either of the petitioner or engaged through contractor*. He further relied upon the judgment passed by the Hon'ble High Court of Delhi on 27.08.2019 in **RPFC vs. Ahluwalia Contracts (India) Ltd.** where the same view has been reiterated by the Hon'ble High Court in **para no. 8**, regarding the identification of the worker.

8. While the respondent case is that appellant has been given sufficient opportunity to prove his case. He was asked to enroll itself from

01.04.1998. When the appellant has not cooperated with them, then, respondent has taken the figure from the balance-sheet produced by the appellant.

9. I have heard the arguments at bar and gone through the record of this case. Appellant establishment was a partnership of Anil Madaan & Ravi Madaan. Ravi Madaan is an Indian resident, while the partnership deed enclosed herein describes the Anil Madaan (the appellant) herein as a resident of the U.K. It is also a fact that before the Hon'ble High Court of Delhi, Ravi Madaan was examined through Local Commissioner where he admitted the suit property consisted of a basement, ground, first, second and third floors. Basement was lying vacant, half of the ground floor, which was also owned by Mrs. Poonam Madan was lying vacant, the first floor which was owned by Mr. Anil Madan contains old goods belonging to Mr. Anil Madan which were store there. He has admitted that approx. 35 persons were working, including one Chowkidar in the entire building. Partition suit which was filed by Mr. Anil Madan was decreed before the Hon'ble High Court of Delhi. Office address of the appellant is 92-A, Sant Nagar which was the subject matter of the dispute between Anil Madan and Ravi Madan before the Hon'ble High Court of Delhi.

10. If we go through the order then it reveals that Enforcement Officer visited the appellant establishment in November, 1998 and asked him to enroll itself from 01.04.1998. Enforcement Officer submitted his report after more than three years. A show cause notice was issued on 12.04.2001, and more than seven years were taken to complete the inquiry.

11. In the present case, no record was sought by the Assessing Officer from the appellant regarding employees working in the establishment from 01.04.1998. If the appellant started depositing PF from 01.12.1998, then, naturally the respondent should have asked the appellant to provide the list of employee which had been working from 01.04.1998. However, nothing has been brought in this regard nor has any process for identification of the

workers been done. Respondent has taken the figure in the head of job work shown in the balance-sheet and assessed the dues. This is not the correct process which had been taken by the respondent. Hon'ble Supreme Court has already held that before assessing the dues, the respondent must identify the workers for whom deposits are to be made and should call the workers. Moreover, it was Mr. Ravi Madan who is responsible and who has been met. It was not the Anil Madan who was the proprietor. Merely, it is Anil Madan who is 95% of the profit sharer does not amount that he is liable. If any Indian citizen is there then, he should have called. Partners cannot be differentiated on the basis of their share for summoning and compliance of the order.

12. Moreover, the criteria of taking the 25% of the job work shown in the balance sheet are not the correct process adopted by the RPFC. It is also in violation of their own procedure and circular filed by S.K Khanna, Additional Central Provident Fund Commissioner, Dehradun, Uttarakhand.

13. In view of the above facts on record, the appeal stands allowed. Order passed by the APFC under section 7-A of the Act is set-aside and recalled. The deposit made during the compliance shall be refunded to the appellant along with accrued interest.

Sd/-
Atul Kumar Garg
(Presiding Officer)