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

D-1/35/2025
M/s Mount Olivet Senior Secondary School vs. APFC/RPFC Delhi (North).

Present: Sh. Rajiv Arora, Ld. Counsel for the appellant.
Sh. K.K Jha, Ld. Counsel for the respondent.

Order dated- 14.10.2025

1. This order shall dispose of an application filed by the appellant **under rule 7(2) read with rule 21 of the Tribunal (Procedure) rules, 1997,** seeking condonation of delay in filing the appeal. Appellant has stated that, first time he came to know about the said order on 24.04.2025, when he received it through e-mail. Thereafter, he has immediately written letters on 26.04.2025 and 01.05.2025 to the respondent for seeking waiver from payment of damages and interest. Since, the appellant was awaiting a revert, however, no response was received, even, the bank account was attached on 29/30.05.2025, without prior intimation which is an utter violation of the procedure provided in law. He further stated that the matter was discussed at length and finally, the appeal was filed within 120 days of having the knowledge of the same. Hence, he submitted that delay of 56 days be condoned.

2. Respondent has filed the reply, opposed the prayer, stating that order dated 27.05.2024 passed by Ld. Assistant Provident Fund Commissioner, Regional Office, Delhi, North, was sent to appellant on 28.05.2024 vide diary no. RO/DL (N)/COMP-IV/DL/27957 and was duly delivered. Appeal has been filed on 16.08.2025, which is much beyond the prescribed period. Therefore, delay cannot be condoned. Moreover, appellant has not given any explanation as to why he has taken 56 more days

for filing the appeal beyond the 60 days limit. In support of his contention, he has filed the dispatch register as well as the bar code and submitted that registry has been received.

3. I have heard the arguments at bar and gone through the record of this case. Before proceeding further, provision of **under rule 7(2) read with rule 21 of the Tribunal (Procedure) rules, 1997** is required to be reproduced herein:

> *(2) Any person aggrieved by a notification issued by the Central Government or an order passed by the Central Government or any other authority under the Act, **may within 60 days from the date of issue of the notification/order, prefer an appeal to the Tribunal.** Provided that the Tribunal may if it is satisfied that the appellant was **prevented by sufficient cause from preferring the appeal within the prescribed period, extend the said period by a further period of 60 days.***
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> *Provided further that no appeal by the employer shall be entertained by the Tribunal unless he has deposited with the Tribunal a Demand Draft payable in the Fund and bearing 75% of the amount due from him as determined under Section 7-A. Provided also that the Tribunal may for reasons to be recorded in writing, waive or reduce the amount to be deposited under Section 7-O.*

4. From the perusal of the above said rule, it appears that an appellant aggrieved by an order passed under various sections must file the appeal before this Tribunal within 60 days. Further, this Tribunal is empowered to condone a delay for an additional 60 days, if the appellant is able to demonstrate the sufficient reason that prevented him from filing the appeal.

5. In the present case, there is no dispute that e-mail has been sent to the appellant by the respondent on 24.04.2025, and thereafter, the appellant's

account was attached in May, 2025. There is no explanation given by the respondent as to why the e-mail dated 24.04.2025 was sent to the appellant without mentioning anything, if that order had already been passed on 28.05.2024 and sent by post. No postal receipt has been annexed. The reliance placed on the bar code is misplaced, which has been provided by the postal department to the respondent department in bulk. Bar code number does not guarantee that the envelope was dispatched. Only postal receipts, which contain the weight and stamp details, can prove delivery. The department cannot excuse the non-production of the register or receipt. The fact of non-sending of the order through post itself is under cloud because, if the order infact has been sent then, there is no need to send the order through mail on 24.04.2025. Moreover, if the order had been dispatched by the enforcement section, then the question arises as to why the respondent waited for a year to execute the said order.

6. Ld. Counsel for the appellant has also placed reliance on the judgments of ***M/s Civicon Engineering Contracting India Pvt. Ltd. Vs. The Central Board of Trustees & Ors., W.P. (C) 9530/2020*** and ***United News of India Vs. Regional Provident Fund Commissioner, Delhi (Central), W.P. (C) 8851/2020,*** where certain guidelines have been issued regarding the manner of passing orders, timelines for uploading, timelines for communication to parties etc.

7. Further, the department in pursuance of the said order had issued the circulars dated 01.10.2020 and 19.01.2021. However, none of the guidelines mentioned therein were followed by the department regarding communication of the order.

8. On the other hand, counsel for the respondent has stated that it should not be called an ex-parte order because on the very first time, they have appeared, but later, they have chosen not to appear. However, this fact does not absolve the respondent's responsibility to deliver the order passed by him through various modes. Moreover, this Tribunal has given the directions

in a number of cases that when the matter is reserved for order, it must be listed in the cause list on the day of pronouncement, with prior intimation to the parties, but here again the respondent failed to adhere to this Tribunal's directions, as well as their own guidelines issued on 01.10.2020.

9. Respondent has also placed reliance on the judgment passed by the Hon'ble Supreme Court recently in the year 2025, where strict timelines were emphasized and delay was not condoned. However, the cited case of **Tata Steel Ltd. Vs. Raj Kumar Banerjee & Ors., AIR 2025 SUPREME COURT 2277: AIR Online 2025 SC 328, Civil Appeal No. 408 of 2023**, pertains to insolvency and Bankruptcy Code. Moreover, this court has been given vide discretion to condone the delay for further 60 days.

10. In view of the above discussion, it is clear that the appeal has been filed within 120 days i.e. within the extended period and this Tribunal has the power to condone the delay. The reason given by the appellant is found to be reasonable. Hence, application stands disposed of.

This Tribunal further reiterates that the pronouncement of orders shall be listed in the cause list, when it is to be pronounced. Any deviation will invite legal action.

A copy of this order is sent to RPFC working under the supervision of this Tribunal.

Sd/-
Atul Kumar Garg
(Presiding Officer)