

**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM  
LABOUR COURT-1/EPFAT, DELHI**

**D-1/02/2018**

**Indian Red Cross Society vs. APFC/RPFC Delhi**

Present: Smt. Jaswinder Kaur & Sh. Shivam Yadav, Id. counsel for the Appellant.  
Sh. Ajay Kumar Singh, Id. counsel along with Sh. Abhitesh Kumar, A/R for the Respondent.

**Order Dated-15.12.2025**

1. Appellant, Indian Red Cross Society, was established by Act of Parliament, assailed the order passed by the respondent **u/s 14B & 7Q of the EPF & MP Act, 1952 (hereinafter referred as the Act)**. It is his case that the Act does not apply on the appellant but during the MB meeting held on 24.05.2016 it was decided under the chairmanship of Lt. Governor of NCT of Delhi that benefits of EPF and allied funds should be provided to the employees of Indian Red Cross Society (Delhi Branch) whereas earlier the system followed was of benevolent fund. Consequent thereto, it was decided that EPF benefit should be extended to all the eligible employees. On 30.08.2016 appellant filed application online for obtaining PF code no under the Act and it was allotted the codevide letter no.**8983269219DLCPM** and establishment code provided was **DLCPM1508030**.

2. The case of the appellant is that after the allotment of code he was required to file Electronic Challan and Receipts (ECR) but during that period Government of India has brought the demonetization scheme and banks refused to undertake any work apart from the currency exchange and cash deposit. It is further his case that after the bank's refusal, appellant approached the respondent to take the payment by cheque but respondent informed that payments can be made only on online mode. Respondent had stopped taking deposit at the counter. It is further his case that society is managing its affairs largely on donations and even services are rendered free of cost and imposing penalty u/s 14B of the Act vide order no.

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**DL/1508030/DAMAGES-I/2094** dated **31.10.2017** for the sum of Rs. **1,39,553/-** is illegal. He submits that order u/s 14B & 7Q qua damages and interest be set aside and recalled.

3. Respondent had filed the reply refuting the allegations stating that the society had defaulted by making the payment of PF remittance belatedly as damages and interest are attracted. He further submits that appeal being bereft of any merits is liable to be dismissed.

4. I have heard the arguments and gone through the record. Before proceeding further, section 14B and 7Q of the Act are required to be reproduced herein:

***14B. Power to recover damages.—Where an employer makes default in the payment of any contribution to the Fund 3[, the 2[Pension] Fund or the Insurance Fund] or in the transfer of accumulations required to be transferred by him under sub-section (2) of section 15 4[or sub-section (5) of section 17] or in the payment of any charges payable under any other provision of this Act or of 5[any Scheme or Insurance Scheme] or under any of the conditions specified under section 17, 6[the Central Provident Fund Commissioner or such other officer as may be authorised by the Central Government, by notification in the Official Gazette, in this behalf] may recover 7[from the employer by way of penalty such damages, not exceeding the amount of arrears, as may be specified in the Scheme:] 8 [Provided that before levying and recovering such damages, the employer shall be given a reasonable opportunity of being heard]: 9 [Provided further that the Central Board may reduce or waive the damages levied under this section in relation to an establishment which is a sick industrial company and in respect of which a scheme for rehabilitation has been sanctioned by the Board for Industrial and Financial Reconstruction established***

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***under section 4 of the Sick Industrial Companies (Special Provisions) Act, 1985, subject to such terms and conditions as may be specified in the Scheme.]***

***7Q. Interest payable by the employer.—The employer shall be liable to pay simple interest at the rate of twelve per cent. per annum or at such higher rate as may be specified in the Scheme on any amount due from him under this Act from the date on which the amount has become so due till the date of its actual payment: Provided that higher rate of interest specified in the Scheme shall not exceed the lending rate of interest charged by any scheduled bank.]***

Rate of levy of damages is given in para 32 A of the Employees' Provident Funds Scheme, 1952 and subsequent para 8A of the Employees' Deposit Linked Insurance Scheme, 1976 and Para 5 of the Employees' Pension Scheme, 1995 which have empowered the CPFC or any such authorised officer to recover from the employer by way of penalty, damages at the rate given below:-

<i>S.No.</i>	<i>Period Of default</i>	<i>Rate of damages (percentage of arrears per annum)</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>(a)</i>	<i>Less than 2 months</i>	<i>Five</i>
<i>(b)</i>	<i>Two months and above but less than four months</i>	<i>Ten</i>
<i>(c)</i>	<i>Four months and above but less than six months</i>	<i>Fifteen</i>
<i>(d)</i>	<i>Six months and above</i>	<i>Twenty five</i>

***(1) Where an employer makes default in the payment of any contribution to the fund, or in the transfer of accumulations required to be transferred by him under sub-section (2) of section 15 or sub-section (5) of section 17 of the Act or in the payment of any charges payable under any other provisions of the Act or Scheme or under any of the conditions specified under section 17 of the Act, the Central Provident Fund Commissioner or such officer as may be authorised by the Central Government***

***by notification in the Official Gazette, in this behalf, may recover from the employer by way of penalty, damages at the rates given below: —***

***(2) The damages shall be calculated to the nearest rupee, 50 paise or more to be counted as the nearest higher rupee and fraction of a rupee less than 50 paise to be ignored.***

5. From perusal of above said section it appears that any employer is required to pay PF contribution by the 15<sup>th</sup> of the following month. In case payment has been made belatedly then, the damages and interest are attracted. In the present case notice was issued to the appellant by the respondent in regard to the period 04/2016 to 06/2017. Assessment was made in regard to the belated remittance of Rs.1,39,553/- as well as amount of Rs.96,032/- u/s 7Q. It is also a matter of fact that the entire amount has been recovered by the respondent in pursuance of the recovery notice. That amount was deposited by the appellant in the form of DD which was encashed by the respondent.

6. Appellant's contention is that he has obtained the code in pursuance of the MB meeting held on 24.05.2016 and was allotted code no on 30.08.2016. Further, due to the Demonetization Scheme, Bank was not taking deposit through ECR and entire work has been stopped and for this reason he has deposited the belated remittance of the contribution of the provident fund payment of its employees. It is his contention that damages and interests are levied prior to discovery period because the respondent has levied the damages and interests from April 2016 while code has been allotted to him by the respondent on 30.08.2016 online. Prior to 30.08.2016, appellant does not know to which account PF contribution has to be deposited. Contribution of the PF have been made in the month of January, 2017 for the period of April to December, 2016 after the situation become normal in the bank. Thereafter, he has been continuously depositing the PF of the 126 employees in time.

7. It is further his contention that section 14B of the Act, the word '**May**' is used. As per calculation sheet the delay in depositing of the PF

was occurred by 213, 182, 153, 122, 91, 62, 69, 39 and 5 days for the wage month 04/2016 to 12/2016 respectively.

8. Code has been taken in August, 2016 prior to that there is no account of the appellant establishment with the respondent department to deposit the PF. By the time till the code had been taken, appellant is not required to deduct the contribution of the PF from the employees' share nor he is required to deposit his contribution from April, 2016 to August, 2016 in time.

9. One more thing is that it is common knowledge that from 08 Nov 2016 due to demonetization, banks have been overburdened and working day and night for encashing demonetized currency up to the limit of Rs. 4,000/- per individual and it took almost a period of three to four months when the situation was normalized. Therefore, the appellant cannot be burdened with the damages and interests on account of delayed remittance of PF contribution.

10. In view of the above discussion in hand, order passed by the respondent is set aside and recalled. Amount recovered u/s 14B and 7Q of the Act are required to be refunded along with accrued interest within four weeks from the date of order. Record of this file is consigned to record room.

Sd/-  
Atul Kumar Garg  
(Presiding Officer)