

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

D-1/83/2024

M/s Lakshmi Vatika Ltd. vs. APFC/RPFC, Delhi (Central).

Present: Sh. Krishan Kumar & Sh. Rajiv Shukla, Ld. Counsels for the appellant.
Sh. Amit Verma, Ld. Counsel for the respondent.

Order dated- 30.10.2025

1. This order shall dispose of an application for condonation of delay filed by the appellant. Appellant's counsel has stated that Ld. Assistant Provident Fund Commissioner has passed an order dated 04.12.2009 **under section 7A of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (hereinafter referred as "the Act")**, demanding Rs. 3,85,29,528/- (Rs. Three Crore Eight Five Lakh Twenty Thousand Five Hundred Twenty-Eight). He had filed the review application which was dismissed by the respondent vide order dated 27.05.2024, observing that the review application is time barred as it has not been filed within 45 days of passing of impugned order dated 04.12.2009 and the establishment has come up with the application after inordinate delay of about 14 years and 2 months which is not tenable.

2. In the later *para*, he had mentioned about the order being passed against the principle of natural justice; impugned order has been passed on the basis of alleged balance sheet for the year in 31.03.2007 and without taking any consideration of relevant figure in the said balance sheet.

3. In whole substances, his application is that the order has been passed illegally and unjustifiably, as such his appeal shall be admitted. Moreover, he has based his contention on the fact that his review

application was dismissed on 27.05.2024 and he has filed the appeal within the time limit.

4. Respondent has filed the counter reply. He has not mentioned anything in his counter reply when this order was dispatched and communicated to the respondent. He has also given the reply on the merit about the order being passed in the right and justful manner.

5. I have heard the arguments at bar and perused the record. Before proceeding further, provision of **Section 7-B of the Act and Rule 7(2) read with Rule 21 of the Tribunal (Procedure) Rules, 1997** are required to be reproduced herein:

Section 7-B of the Act-

Review of orders passed under section 7A.—(1) Any person aggrieved by an order made under sub-section (1) of section 7A, but from which no appeal has been preferred under this Act, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order was made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of such order may apply for a review of that order to the officer who passed the order:

Provided that such officer may also on his own motion review his order if he is satisfied that it is necessary so to do on any such ground.

(2) Every application for review under sub-section (1) shall be filed in such form and manner and within such time as may be specified in the Scheme.

(3) Where it appears to the officer receiving an application for review that there is no sufficient ground for a review, he shall reject the application.

(4) Where the officer is of opinion that the application for review should be granted, he shall grant the same:

Provided that,—

(a) no such application shall be granted without previous notice to all the parties before him to enable them to appear and be heard in support of the order in respect of which a review is applied for, and

(b) no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge or could not be produced by him when the order was made, without proof of such allegation.

(5) No appeal shall lie against the order of the officer rejecting an application for review, but an appeal under this Act shall lie against an order passed under review as if the order passed under review were the original order passed by him under section 7A.

Rule 7(2) read with Rule 21 of the Tribunal (Procedure) Rules, 1997-

(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.

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.

21. Orders and directions in certain cases.—*The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.*

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

7. It is also important to mention here that this appeal has been filed on 03.02.2025. Along with the application, an application for condonation of delay has also been filed. On that very date, this Tribunal had directed the respondent to produce the trial court record along with dispatch register on the next date of hearing along with the reply of the application. Respondent has not filed any reply till this Tribunal was compelled to impose the cost of Rs. 20,000/- upon the respondent vide order dated 02.05.2025. On 02.06.2025, the reply to the appeal as well as to the miscellaneous application for condonation of delay has been filed. On scrutiny, the entire reply was silent about the dispatch of the order. Rather than, respondent has described the reason of passing of the order which

has been stretching in ten pages. It was also observed that both the respondent and the appellant are hand in gloves with each other.

8. Mr. Subodh Kumar, RPFC-II, appeared on 10.06.2025 and he stated that he will file the amended reply incorporating the fact, however, this Tribunal was reluctant in giving any further time to file the amended reply. But on seeing the record he has stated that impugned order was tried to be served upon the appellant but he could not be found. Trial Court record reflects that at least the order passed under section 7A was in the knowledge of the appellant establishment at least in the year 2013 itself.

9. On further perusal of the trial court record, at page no. 292/293 at para no. 17, it was mentioned that proceeding under section 8B of the Act was initiated on 14.09.2012 and during the proceeding; an advocate on behalf of Sh. Vikash Singh (one of the Directors) informed that Chairman Sh. Devender Aggarwal died in road accident. Office memo dated 31.10.2012 was issued to the legal section to file the appeal before Hon'ble Delhi High Court to recover PF liability as the establishment has been collaborated with M/s Mastiff Buildcon. Further, in para no. 26, at page no. 292, reply objection dated 10.01.2013 submitted by Sh. S.P Singh on behalf of Vikash Singh partner.

10. The above facts reveals that appellant was well within knowledge of the order passed u/s 7A of the Act by the respondent on 04.12.2009 at least in the year 2012. He has not chosen to file any appeal against the order u/s 7A of the Act. In 2024, in order to circumvent the provision of the limitation as set out under rule 7(2) of the Rules, he has filed the application under section 7-B for reviewing the order passed in the year 2009 which would naturally dismissed being time barred.

11. In view of the above discussion in hand, I do not find any merit in the application for condonation of delay. Hence, application being devoid of any merit stands dismissed. Consequent thereto, appeal also stands

dismissed. Since the application for waiving of the cost of Rs. 20,000/- imposed by this Tribunal upon the respondent vide order dated 02.05.2025 has already been dismissed, respondent is directed to deposit the cost within two weeks in this Tribunal from the date of passing of this order, otherwise the account of the respondent would be attached. The trial court record is also released and the AR for the respondent is directed to collect the same forthwith.

Sd/-

Atul Kumar Garg
(Presiding Officer)