BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, No. 2 DELHI

D-2/25/2024
M/s Chennai MSW Pvt. Ltd. vs. APFC/RPFC, Noida.

Present: Sh. Ravi Ranjan Mishra, Ld. Counsel for the appellant.
Ms. Santwana Aggarwal, Ld. Counsel for the respondent.

Order dated- 03.09.2025

1. Counsel for the appellant has pressed his application **under section 7-O of the EPF & MP Act, 1952 (hereinafter referred as the 'Act'),** stating that the appellant has paid allowances to the employees concerned in agreement with their initial appointments, and the employees have not challenged the payment of salary as allowances or basic pay. Impugned order has been passed for the period from September 2015 to January 2020, wherein a bare perusal of the report of the Enforcement Officer demonstrates that there is no identification of beneficiaries, and a number of employees have already left the organization. He submitted that there is a fit prima-facie case where the appellant has fair chance of winning. As such, he submitted that he deserves a complete waiver of the amount.

2. Respondent has filed the reply of the application, opposing the prayer. He had taken several preliminary objections. First of all, he described the object of the Act. Secondly, he stated that the appellant has been bifurcating the salary in such a manner so that, he is only deposited the less amount. He submitted that as per the Act, before entertaining the appeal appellant is required to deposit 75% of the assessed amount.

3. I have heard the arguments at par and perused the record. Before proceeding further provision of 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*

4. From the perusal of the above said section, it appears that before entertaining the appeal, appellant is required to deposit the 75% of the assessed amount under section 7-A. At the same time, a provision has been made whereby the Tribunal has been given wide discretion to reduce or waive the pre-deposit amount.

5. The impugned order is based on the premise that the appellant has bifurcated his salary in such a manner for evading the contribution. He had taken the total assessed amount in three heads i.e. 09/2015 to 03/2019, 04/2019 to 10/2019 & 11/2019 to 01/2020. The first amount is in respect of the fact where no records have been provided. The second amount is in respect of the fact where the allowances has been excluded for the purpose of the depositing the amount by the appellant. The third amount is in respect of the excessive HRA.

6. Counsel of the respondent has not given explanation as to what step were taken to procure the records for the period from September, 2015 to 03/2019 and had taken the average pay. If, the records were not produced, the authority was empowered to take the coercive action by seizing the record. Secondly, the authority has assessed the amount in respect of the allowances i.e. HRA and fixed the ceiling limit of 30% of his own without considering the specific circumstances of the case. Therefore, these questions are required for consideration.

7. Considering the above facts on record, it appears that case of complete waiver is not made out. Accordingly, appellant is directed to deposit the 15% of the assessed amount. Appellant is directed to deposit the said amount by way of **FDR** favouring **'Registrar CGIT'** initially for a period of one year having auto renewal mode, within four weeks from today. It is made clear that if the appellant fails to comply with the condition laid down by this tribunal within the stipulated time frame, the stay shall not be in operation and the respondent shall have the liberty to execute the order as per rules. Put up for reporting compliance by appellant as well as filing of reply to the appeal by ld. Counsel for the respondent on 03.11.2025. In the meanwhile, interim orders to continue till next date of hearing.

Atul Kumar Garg
(Presiding Officer)

BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT No. 2, DELHI

D-2/01/2025
M/s Chennai MSW Pvt. Ltd. vs. APFC/RPFC, Noida.

<u>Dated: 09.09.2025</u>

File is taken up as the office has brought the fact before this Tribunal stating that at the top as well as at the bottom appeal number has been wrongly typed as **D-2/25/2024** instead of **D-2/01/2025.**

I have gone through the record and found that the stenographer has inadvertently mentioned the wrong appeal number as D-2/25/2024 in the order dated 03.09.2025 passed in **M/s Chennai MSW Pvt. Ltd. vs. APFC/RPFC, Noida**.

Considering the above fact, order passed **under section 7-O of the EPF & MP Act, 1952** in appeal titled as **M/s Chennai MSW Pvt. Ltd. vs. APFC/RPFC, Noida** be read as order passed in appeal no. **D-2/01/2025** instead of **D-2/25/2024**. Ordered accordingly.

Atul Kumar Garg
(Presiding Officer)