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

D-2/08/2024
M/s Arabtec Construction (I) Pvt. Ltd. vs. APFC/RPFC, Gurugram.

Present: Sh. Rajiv Shukla, Ld. Counsel for the appellant.
Sh. B.B Pradhan, Ld. Counsel for the respondent.

Order dated-13.10.2025

ORAL:

1. Appellant has pressed his prayer for staying the operation of the impugned order dated 17.08.2022, passed by the Regional PF Commissioner-II **under sections 14B & 7Q of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the Act"),** whereby amounts of Rs. 14,73,888/- and Rs. 7,30,014/- respectively, have been assessed for the period from 04/1996 to 10/2021 against **M/s Siddhi Construction**.

2. Respondent, instead of filing a reply, has submitted the written submissions opposing the prayer. It is submitted by him that appeal filed by the appellant is not maintainable because the impugned order under sections 14B & 7Q of the Act has been passed against the establishment M/s Siddhi Construction. Therefore, the statement of account was issued due to the delayed deposit of contributions. During the course of inquiry, **Mr. Pawan Gautam** appeared physically on behalf of establishment and submitted certain documents to show that the major part of the amount levied under sections 14B & 7Q on the establishment is to be paid by their principal employer i.e. M/s Arabtec Construction India Pvt. Ltd., as per their work agreements. He further submitted that it was M/s Arabtec

Construction (I) Pvt. Ltd. who deposited the amount of contribution, so, he is liable to pay the same.

3. I have heard the argument at bar and perused the record. As per the case of the appellant, it is covered under the provisions of Act. Vide Notice No. GN/GGN/1164954/000/Enf/523/Damages/131 dated 29.10.2021, respondent no. 2 initiated proceedings against respondent no. 4 i.e. M/s Siddhi Construction, under sections 14B & 7Q of the Act for the period from 01.04.1996 to 29.10.2021. Respondent no. 2 had issued the notice for appearance on 26.07.2022. Mr. Dinesh Nagpal, authorized representative of the appellant, appeared before the respondent no. 2 and sought time to go through the records. Again, on 02.08.2022, he appeared and sought time to go through the record. It has been submitted that the respondent no. 2 refused the request of the appellant and the case was reserved for order. According to the appellant, it is M/s Siddhi Construction which is covered under the provisions of the Act, having separate PF code no. GNGGN/1164954000. The liability of the contractor i.e. respondent no. 4, who has its own PF Code, cannot be foisted upon the principal employer.

4. Here, the certain facts have been admitted that the impugned order was passed against the appellant only on the basis of an agreement shown between the appellant as well as M/s Siddhi Construction, against whom the proceedings were initiated. The agreement was provided by the M/s Siddhi Construction to show that there was an agreement between 2014 to 2016 under which the principal employer was responsible for payment of the dues.

5. This Tribunal fails to understand how M/s Arabtec Construction (I) Pvt. Ltd. can be held liable to pay the damages and interest for the belated remittance of dues pertaining to M/s Siddhi Construction. Further, respondent has not been able to demonstrate whether, in fact, the payment of PF contribution of the employees of M/s Siddhi Construction has ever been deposited by the appellant.

6. In these circumstances, there is weight in the argument of the appellant regarding the prima facie case made out in his favour. Therefore, unconditional stay is granted upon the execution of the impugned order.

Put up for filing of reply to the main appeal by the respondent on 08.12.2025. A copy of this order be sent to the RPFC.

Sd/-

Atul Kumar Garg
(Presiding Officer)