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

D-2/12/2025
M/s Shreya Construction vs. APFC/RPFC, Meerut.

Present: Sh. Prakash Kumar, Ld. Counsel for the appellant.
Sh. Narender Kumar, Ld. Counsel for the respondent.

Order dated-13.10.2025

ORAL:

1. Counsel for the respondent has not filed any reply to the application of condonation of delay filed by the appellant. He straightaway argued the case. Respondent submits that he is not able to produce the date and proof of dispatch of the impugned order under the appeal.

2. Counsel for the appellant has submitted that he received the ex-parte order on 30.06.2025 and came to know about this order only on 30.06.2025, when the recovery notice **under section 8F of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the Act")** was delivered to him.

3. Counsel for the respondent has only stated that the ex-parte order was passed on 24.02.2025, and the appeal was filed on 28.07.2025, which is much beyond 120 days from the date of issuance of the order.

4. I have heard the arguments at bar and perused the record. Before proceeding further, provision of **under Rule 7(2) read with Rule 21 of the Tribunal (Procedure) Rules, 1997** are 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.***
>
> *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.*

5. From the perusal of the above 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, the Tribunal is empowered to condone a delay for an additional 60 days, if the appellant is able to demonstrate sufficient reason that prevented him from filing the appeal within the prescribed period.

6. In the present case, the appellant has stated that it was ex-parte order and was received to him only on 30.06.2025, when he received the recovery certificate. Since the respondent’s counsel is not able to bring any record regarding dispatch of the order, appellant’s contention that he received the order on 30.06.2025 is accepted as true. Therefore, **the application for condonation of delay stands allowed**.

7. Now, the appellant has pressed his application **under section 7-O of the Act.** Counsel for the appellant submits that it is engaged in the construction business and is covered by EPF Code No. MRMRT0058952000 since 01.06.2013. It follows all rules and regulations, and deducts and deposits contribution on time. There is not a single complaint against the appellant. Suddenly, on 10.06.2025, it received an ex-parte recovery order issued u/s 8F of the Act directing to deposit an amount of Rs. 28,02,026/- assessed u/s 7A of the Act for the period of 12/2018 to 07/2021. He submits that without affording the opportunity respondent has assessed an amount of Rs. 28,02,026/- against him. Financial position of the appellant is not good.

8. On the other hand, respondent has filed the reply, opposing the prayer stating that appellant is required to deposit at least 75% of the amount due from him as determined by the competent authority.

9. 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*

10. 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.

11. From the perusal of the impugned order, it appears that entire order is based on the report of the Assistant Enforcement Officer Sh. Santosh Kumar Yadav who had stated that from the Balance Sheets, Income Tax Returns, Salary Registers and incomplete Form-11 produced by the establishment; it is found that relevant documents were being withheld. As per the salary register the establishment does not deduct ESIC contributions for eligible employees and Income Tax Returns it is revealed that TDS was not deducted for eligible employees.

12. Considering the above facts on record, total waiver is not made out. In the fact and circumstances of the case, appellant is directed to deposit the amount of Rs. 5,00,000/- by way of **FDR** favouring **'Registrar CGIT'** initially for a period of one year having auto renewal mode, within six 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 04.12.2025. In the meanwhile, interim orders to continue till next date of hearing. Nothing stated herein shall be construed as an opinion on the merit of the case.

Sd/-
Atul Kumar Garg
(Presiding Officer)