

**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM
LABOUR COURT, DELHI**

Appeal no. D-2/18/2025

M/s. Ahresty India Pvt. Ltd.

.....Appellant

Through:- Sh. Vivek Kaushal, Ld. counsel for the appellant.

Vs.

APFC/RPFC, Gurgaon (West)

.....Respondent

Through:- Sh. Chakradhar Panda, Ld. counsel along with Sh. Lalit Kumar, AR for the respondent.

Order:-oral

Order Dated:- 16.09.2025

This order shall dispose of an application filed by the appellant seeking condonation of delay. The appellant has stated that the impugned order, alleged to have been passed on 13.01.2025, was not communicated or supplied to them despite being a necessary party to the proceedings. According to the appellant, they became aware of the order only during casual inquiry about the status of the proceedings at the respondent's office. Upon being informed of the order, they requested a copy of the same. However, the respondent insisted that a written application on the company's letterhead be submitted for obtaining the copy. The appellant submitted a written application dated 24.07.2025 seeking a copy of the order. In response to the said application, the respondent provided an order dated 15.07.2025, which contained details of a recovery certificate issued against the appellant. Upon receiving the recovery certificate order, the appellant again sought a copy of the impugned order, which was finally provided to them on 24.07.2025. Therefore, the appellant's case is that the appeal has been filed within limitation.

In reply, the respondent has submitted that the application is a blatant abuse of the process of law. It is alleged that the appellant has

tried to mislead this Tribunal by omitting as well as concealing something which is nothing but a penal offence and the appellant is responsible for the consequences thereof. It is further submitted that the appellant has preferred the appeal challenging the order dated 13.01.2025 under sections 14B and 7Q of the **Employees' Provident Funds & Misc. Provisions Act, 1952 (Hereinafter referred to as 'the Act')** passed by the Assessing Authority, EPFO, Gurugram, Haryana and further recovery certificate dated 15.07.2025 issued under section 8 of the Act. The respondent has averred that these orders were served upon the appellant on 03.03.2025 by postal receipt and also by official mail. These impugned orders were uploaded on the departmental e-portal on 13.01.2025. It is therefore prayed that the appellant shouldn't be given any indulgence by allowing this application. Moreover, this Tribunal is not empowered to condone delay beyond 120 days. On these grounds, the respondent has sought dismissal of the application.

I have heard the arguments advanced by both parties and perused the record. Before proceeding further, text of rule 07 (2) of Employees' Provident Fund Appellate Tribunal (Procedure) Rules, 1997 is 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.

As per the above rule, an appeal must be filed within sixty days of the order passed by the respondent authority under different sections. Further, the proviso attached with the rule has given discretion to the Tribunal to condone the delay for another sixty days if the appellant is able to demonstrate the sufficient cause which prevented him from filing the appeal. In the present appeal, the appellant contends that they came to know about this order only on 15.07.2025, and the appeal has been filed within limitation from the date of knowledge. The contention has been opposed by the respondent, who has reiterated in their reply that the orders were served and uploaded on the portal. Along with the reply, certain documents had been annexed by the respondent along with the reply of the application.

After going through the above said documents annexed with the reply, it appears that the communication was sent on 03.03.2025, enclosing the order dated 13.01.2025 to the appellant's establishment. Further, the case status uploaded on the website shows the date of disposal as 03.03.2025 (page 31 of the reply on the application). Meaning thereby that the matter remained pending till 03.03.2025, and it was antedated as 13.01.2025, otherwise, no question arises for mentioning the date of disposal as 03.03.2025. Even no postal receipt of the said communication has been attached, showing that it was in fact dispatched.

Moreover, the respondent's counsel has admitted the fact that the RPFC had not shown the matter in the cause list on the day when order was to be pronounced. This Tribunal on various occasions, namely, *M/s. E-Meditech Insurance Ltd. vs. RPFC, Gurugram (D-2/04/2024)* order dated 28.03.2024, *M/s. Sondha & Company vs. APFC/RPFC, Gurugram (West) (D-2/03/2025)* order dated 28.03.2024 and *M/s. Akasva Infrastructure Pvt. Ltd. vs. APFC/RPFC, Gurugram (D-2/32/2024)* order dated 03.07.2024, had directed all the RPFCs in its jurisdiction to list the matter in the cause list of the day, which is to be pronounced after giving prior information to the parties in regard to this fact. The practice

of reserving the matter requires that the parties should be informed in advance about the date of pronouncement, otherwise the parties remain in dark. The RPFC herein failed to adhere the directions passed by this Tribunal on various occasions. In these circumstances, it cannot be assumed that the order was dispatched either on 13.01.2025 or 03.03.2025.

In view of the above, this Tribunal has no option but to accept that the appellant came to know about the impugned order on 15.07.2025. Therefore, considering the above facts on record, this application stands disposed of, holding that the appeal has been filed within the period of limitation.

A copy of this order is sent to the CPFC with direction to take disciplinary action against the Assessing Authority, i.e., APFC/RPFC, who failed to comply with the directions issued by this Tribunal. In case no action is taken, this Tribunal shall be constrained to take legal action. A compliance report shall be submitted to this Tribunal within two months of receipt of this order.

Let this matter be listed on 06.11.2025 for consideration of interim stay application.

Sd/-

Atul Kumar Garg
(Presiding Officer)