

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

**D-2/17/2020**

**M/s Egelhof Controls India Pvt. Ltd. Vs. APFC/RPFC Noida.**

Present: Sh. Anshul Goel, A/R for the appellant.  
Sh. B.B. Pradhan, Ld. Counsel & Sh. Brijesh, A/R for the  
respondent.

**ORAL**

**Order dated- 27.10.2025**

1. Appellant has assailed the order passed by Respondent dated 27.02.2020 under Section 7A of the EPF & MP Act, 1952 (hereafter referred as the Act) whereby an amount of Rs. 3,12,714/- is assessed as EPF & Allied dues for the period 01/2014 to 04/2018.
2. Appellant has assailed the said order on the grounds that the respondent has not considered that the appellant is having a uniform pay structure for all its employees and everyone is contributing in the in the EPF irrespective of the fact, whether the employee were falling under the required wage ceiling or not. Appellant has also relied upon the judgment passed by Patna High Court in the matter of **APFC Vs. M/s. Nand Lal (5 of 9) [ SAW-711/2017]** wherein it is held that :-

***“ We are of the view that the assessment under section A of the Act should not be confused with an assessment of the tax.”***

It is also submitted by the appellant that he has appeared almost thirty six times before the APFC Noida and had provided full cooperation to the respondent.

3. Respondent has filed the counter reply to the appeal wherein he has specifically denied all the allegations, claims, demand contained in the instant appeal except and to the extent, specifically admitted therein. So far so the reply to Para 6(vii) of the appeal is concerned, he has stated that the departmental representative filed his report during proceeding conducted on 14.11.2019 and in the said report it is specifically submitted that the enquiry has been initiated under Section 7 A of the Act against the establishment for the period 01/2014 to 04/2018 regarding noncompliance of the provisions laid down under the Act. On verification of the record produced by the establishment , it was found that the establishment is paying its employees '**Other Allowance**' to evade PF liability. He submits that the respondent has passed a reasoned order and prayed that the appeal is liable to be dismissed.

4. I have heard the arguments and gone through the record. Before proceeding further, the term '**basic wages**' (as defined in Section 2b and Section 6 of the Act) on which the appellant is liable to deduct the EPF & allied dues and is responsible to pay the contribution of his own to the EPF department is reproduced hereunder:-

*2(b) "basic wages" means all emoluments which are earned by an employee while on duty or 3[ on leave or on holidays with wages in either case] in accordance with the terms of the contract of employment and which are paid or payable in cash to him, but does not include—*  
*(i) the cash value of any food concession;*  
*(ii) any dearness allowance (that is to say, all cash payments by whatever name called paid to an employee on account of a rise in the cost of living), house-rent allowance, overtime allowance, bonus commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment;*

***(iii) any presents made by the employer;***

***6. Contributions and matters which may be provided for in Schemes.— The contribution which shall be paid by the employer to the Fund shall be [ten per cent.] of the basic wages, [dearness allowance and retaining allowance (if any)] for the time being payable to each of the employees [(whether employed by him directly or by or through a contractor)], and the employees' contribution shall be equal to the contribution payable by the employer in respect of him and may, [if any employee so desires, be an amount exceeding 6[ten per cent.]of his basic wages, dearness allowance and retaining allowance (if any), subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under this section]:***

***9[Provided that in its application to any establishment or class of establishments which the Central Government, after making such inquiry as it deems fit, may, by notification in the Official Gazette specify, this section shall be subject to the modification that for the words 6[ten per cent.], at both the places where they occur, the words [twelve per cent.]shall be substituted:]***

***Provided further that where the amount of any contribution payable under this Act involves a fraction of a rupee, the Scheme may provide for the rounding off of such fraction to the nearest rupee, half of a rupee or quarter of a rupee.***

***[Explanation 1].—For the purposes of this [section], dearness allowance shall be deemed to include also the cash value of any food concession allowed to the employee.***

***[Explanation 2.—For the purposes of this [section], “retaining allowance” means an allowance payable for the time being to an employee of any factory or other establishment during any period in which the establishment is not working, for retaining his services.]***

The respondent department has assessed the dues to the tune of Rs. 3,12,714/- taking the base that the appellant has been evading the PF liability of employees who were getting basic wages more than Rs. 6,500/- prior to 01.09.2014 and Rs. 15,000/- thereafter.

5. During the course of argument, the appellant has produced the 'Salary Structure of the Staff' comprising wages structure of employees namely **Pankaj Upadhyay, Nanda Mishra, Nitin Choudhary, Rajan Tikoo, Vishal Saxena, Nishu Goel and Amit Kumar** for the month of April-2014 which is divided into **Basic, HRA, Conveyance, Entertain., Medical, Fuel Exp., Book & Per., etc.** Total salary of these employees comes to Rs. 1,91,663/-, Rs. 51,000/-, Rs. 21,000/-, Rs. 27,000/-, Rs. 24,600/-, Rs. 26,000/- & Rs. 15,100/- respectively. According to the appellant establishment it is the structures salary and he has made the contribution by deducting PF contribution of Rs. 780/- which is 12% of the maximum ceiling limit of Rs. 6,500/-. His plea is that he has also been paying the contribution in PF in respect of the employees getting more than Rs. 6,500/- and Rs. 15,000/- per month. He has not shown any person as exempted employee so there is no malafide intention to avoid the PF liability.

6. However, the contention of the appellant is not well founded, because the law does not see any malafide or bonafide intention in its application and in assessment of dues. Total net salary payable to the employees is more than triple of the basic salary. Allowances have been given to the employees which were more than thrice of the basic salary. Allowances are given to facilitate/motivate the employees either to encourage them to work hard or to compensate the standard of living in a particular city; that cannot be the thrice of the basic salary. Respondent has only taken a particular allowance i.e. **'Other**

**Allowance'** upto the limit of Rs. 6,500/-prior to 01.09.2014 and Rs. 15,000/- thereafter.

7. In view of the above discussion, I do not find any merit in the appeal. Order passed by the respondent assessing the dues to the tune of Rs. 3,12,714/- is reasoned order. Therefore, appeal stands dismissed. Since, the appellant has been regularly paying the contribution of its employees and it is just that the assessment was made for the dues on payment of allowance, respondent is expected not to initiate any further proceeding under Section 14 B of the Act. Since, the assessed amount includes the contribution of employee on the allowances to be paid in the PF for which contribution has not been deducted from the employee's salary, no question arises of giving the interest under Section 7 Q of the Act on the assessed amount. Office is directed to consign the record to the record room.

Sd/-

Date: 27.10.2025

ATUL KUMAR GARG

(Presiding Officer)