

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM
LABOUR COURT, JABALPUR

NO. CGIT/LC/EPFA/108/2017

Present: P.K.Srivastava

H.J.S..(Retd)

**M/s District Marketing Officer Kanker,
 Chhattisgarh State Cooperative Marketing
 Federation Limited,
 Through – District Manager, Chhattisgarh
 State Cooperative Marketing Federation Limited,
 Kanker**

Workman

Vs

**Regional Provident Fund Commissioner
 Office of: Employees Provident Fund Organization
 Regional Office Block D, Scheme No. 32,
 Indira Gandhi Vyavasaik Parisar, Pandri,
 Raipur (C.G.)**

Management

(JUDGMENT)

(Passed on this 11th day of July-2025)

The present appeal is directed against the composite order dated 11.04.2014, passed by the Respondent Authority under Section 7Q and 14B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (in short the 'Act') whereby the Respondent Authority has recorded a finding that, the Appellant Establishment has defaulted in deposit of EPF dues of its employees for the period mentioned in the order and has assessed the amount under Section 14B at Rs. 20,37,768/- and amount under Section 7Q at Rs. 11,56,772/- total amount Rs. 31,94,540/- and has directed to pay the amount.

The facts connected are mainly that, proceedings were issued by the Respondent Authority for recovery of interest and damages/penalty for the default in deposit of EPF dues of its employees by the Appellant Establishment for the period between March and April, 2003 and March, 2009 to August, 2010. A notice was issued to the Appellant Establishment by the Respondent Authority in this respect. The Appellant Establishment submitted its reply contending that the Work was executed by contractor

Amar Singh Nag hence he was liable to pay the interest and damages and that the Amount with respect to default of PF dues of Hammals engaged by the Contractor for execution of the work of the Establishment who never worked regularly at any time and left services of the Contractor. It was further requested by the Appellant Establishment to summon the Contractor Amar Singh Nag and initiate proceedings against him for interest and penalty, also it was stated that the amount shown in the notice was also not correct. The Respondent Authority passed the impugned order with impugned findings and assessment without assigning any reason which is against law, hence this appeal.

Grounds of appeal are mainly that, the default is with respect to the Hammals engaged by the Contractor Amar Singh Nag who failed to deposit the PF dues of his employees engaged by him for the work of the Appellant Establishment for which the contract was given to him by the Appellant Establishment. He was allotted a specific PF No. hence he was responsible for depositing the PF dues and interest and damages in case of default. Hence, the findings with respect to default by Appellant Establishment in depositing PF dues is incorrect in law and has been recorded not in accordance of law in this respect.

In its counter to the Appeal, the Respondent Authority has defended impugned order with the case that the Act is beneficial legislation hence any provision of the Act which is applicable two interpretations; the interpretation in favor of the beneficiary shall be accepted. Also, that the organization paid interest on the PF deposits to the beneficiaries is the amount gained by way of depositing the amount in different interest earning schemes. It is further the case of the Respondent Authority that order under Section 7Q is not applicable.

Both the sides have filed written arguments. I have gone through the written arguments and the record. Following points arise for determination in the case in hand -

- 1. Whether the present appeal is maintainable with respect to finding and assessment under Section 7Q of the Act also?*
- 2. Whether the findings of the Respondent Authority that the Appellant Establishment being principal employer is under legal obligation to pay interest and damages for the default made by*

the contractor in depositing the PF dues of Hammals engaged for the work of Appellant Establishment?

Point for determination No.1 –

There is no specific provision in the Act which provides appeal against order under Section 7Q of the Act. Moreover, order under Section 7Q is a consequential order passed in consequence to the order under Section 7A of the Act which decides the liability to deposit the PF dues.

In the case of **Organic Chemicals Industries V.s. Union of India AIR 1979 SC 1803** that when a composite order in respect to interest and penalty has been passed by the Respondent Authority I a joint proceeding, appeal shall be maintainable against this order. Hence, in the light of this principal of law laid down by Hon'ble Supreme Court, the appeal against the composite order u/s 7Q is held maintainable.

Point for determination No.1 is answered accordingly.

Point for determination No. 2 –

The main objection of the Appellant Establishment is that, since the Hammals were employees of the Contractors who has allotted separate PF No., he is responsible to pay interest as well penalty in case of default in deposit and not the Appellant Establishment who is the principal employer. I am not inclined to accept this submission for the reason that Section 2(E) and 2(F) of the Act are defining employer and employee stated that even employees of Contractors engaged by Principal Employer in connection of its work are the employees of the Principal employer also. These two provisions are being reproduced as follows :-

2(e) "employer" means--

- (i) *in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948), the person so named; and*
- (ii) *in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to a*

manager, managing director or managing agent, such manager, managing director or managing agent;

2(f) "employee" means

any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of an establishment, and who gets his wages directly or indirectly from the employer, and includes any person--

(i) employed by or through a contractor in or in connection with the work of the establishment;

(ii) engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961 (52 of 1961), or under the standing orders of the establishment;

Thus it is clear that the liability of the Appellant Establishment is joint and several being principal Employer hence the findings of the Respondent Authority that the Appellant Establishment is liable to pay interest and penalty is held to have been recorded correctly in law.

As regards, the argument by the side of Appellant Establishment that there is no finding with regard to *mens rea* in default of deposit, the Respondent Authority is relied on judgment of Hon'ble Supreme Court in the case of *Horticulture Experiment Station Vs. RPFC Civil Appeal No. 2136/2012* and connected appeals wherein it has been laid down that *mens rea* is of no significance with respect to Civil Liability. Moreover, there is nothing on record before this Tribunal to show that there are any mitigating circumstances in default to deposit the PF dues. Hence, this argument from the side of the Appellant Establishment also fails.

There is nothing to show that, the amount under Section 7Q and 14B of the Act has been incorrectly assessed.

Hence, in the light of above discussion, the impugned finding and assessment of the Respondent Authority is held correct in law.

Point for determination No.2 is decided accordingly.

No other point was pressed.

On the basis of above discussion and findings the appeal is held without merits and is liable to be dismissed.

ORDER

**Appeal Dismissed.
No order as to cost.**

Date:- 11/07/2025

**P.K. Srivastava
(Presiding Officer)**

Judgment Signed, dated and pronounced.

Date:- 11/07/2025

**P.K. Srivastava
(Presiding Officer)**

