

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, ROUSE  
AVENUE, DISTRICT COURT COMPLEX, DELHI.**

Present:

Smt. Pranita Mohanty,  
Presiding Officer, C.G.I.T.-Cum-Labour  
Court-II, New Delhi.

**ATA No. D-1/36/2022**

M/s. Vishakha Facility Management Pvt. Ltd.

Appellant

VS.

RPFC, Delhi (E)

Respondent

**ORDER DATED :-03/08/2022**

Present:- Shri Nikhil Patnaik, Ld. Counsel for the appellant.

Shri Rajesh Kumar, Ld. Counsel for the Respondent.

This order deals with the admission of the appeal and an application filed by the appellant praying an interim order of stay on execution of the impugned orders passed u/s 14B and 7Q of the EPF&MP Act, by the RPFC Delhi, East. Another petition has been filed praying condonation of delay in filing the appeal.

Being noticed the Respondent appeared through it's counsel, and the matter was heard being argued by the counsel for both the parties.

The appeal has been filed by the appellant, a Pvt. Ltd Company challenging the orders passed by the RPFC u/s 14B and 7Q of the EPF & MP Act where under the establishment has been directed to deposit Rs 19,78,665/- as damage and Rs 9,89,454/- as interest for the delayed remittance of the PF dues for the period 03/08/2016 to 30/06/2019.

It has been stated by the appellant that the commissioner by notice dt30/08/2019 had called upon the establishment show cause as to why damage shall not be levied and interest shall not be calculated for the delay in remittance of the PF contribution of it's employees for the above said period. In response to the same, the authorized representative of the establishment appeared and disputed the calculation by filing some of the challans, showing deposit of the dues. It was specifically pleaded before the commissioner that the calculation sheet supplied along with the notice is incorrect. Though direction was given to the department Representative for working out a revised calculation sheet, the same was never carried out. It was also pleaded before the commissioner that the delay was not intentional, but the commissioner during the inquiry, without considering the submission made passed the impugned order in which no finding on mensrea has been rendered nor any reason in support of imposing maximum rate of interest has been assigned. By filing the challan details showing the deposit, the appellant submitted that there is hardly any delay in remittance, but the commissioner without assigning any reason for imposition of damage at the highest percentage passed the non speaking order. He thereby submitted that the composite order which has been passed after a common inquiry need to be stayed as the appellant has a strong case to argue in the appeal and serious prejudice shall be caused if the appeal is not admitted and an interim order preventing execution of the impugned order pending disposal of the appeal is not passed. It has been stated that the Bank account of the appellant was attached and the entire amount assessed has been recovered,

hence, while admitting the appeal, the Tribunal in the interest of justice should pass an order directing the Respondent to refund the amount which can be deposited by the appellant subject to the result of this appeal.

The learned counsel for the respondent Mr. Rajesh Kumar in his reply took serious objection to the prayer of interim stay and argued that the delay has been admitted by the establishment since the assessment of damage and interest was made after the order passed u/s 7A for the same period which has attained finality. He thus argued that no order of interim stay should be granted in view of the recovery already made. He further submitted that the impugned orders were passed in the year 2020 and after expiry of the period prescribed for limitation recovery action was taken up. He also added there being two separate orders passed u/s 14B and 7Q of the Act, the appeal challenging the order u/s 7Q is not maintainable.

In his reply the learned counsel for the appellant while pointing out the defects and discrepancies in the impugned orders including no finding on the mensrea for delayed remittance entailing liability for damage, submitted that the two separate orders are the outcome of a common summon and common proceeding and hence a appeal is maintainable against the order passed u/s 7Q of the Act. He also argued that the recovery action of the Respondent is illegal for the limitation extended by the Hon'ble SC in the order passed in suo motto WPC No 3/2020. He emphasized that the orders which were passed after a common proceeding are composite orders.

The position of law in this regard was discussed by the Hon'ble SC in the case of Arcot Textiles Mills case and it was held that the order passed u/s 7Q if a composite order being passed u/s 7A is amenable to appeal u/s 7I of the Act. It was further held that

any composite order a facet of which is appealable, the other part would be appealable too. If an independent order is however passed, no appeal would be maintainable in respect of the interest compound under section 7Q of the Act.

The position was again discussed by the Hon'ble High Court of Delhi in the case *Gourav Enterprises vs. UOI*, and it has been held that in order to determine if the order passed u/s 7Q is an independent order or composite order, the facts relevant for consideration are:-

- 1- if the notice to show cause was common
- 2- if common reply was filed by the establishment
- 3- if common proceedings u/s 14B and 7Q were held
- 4- if two separate orders or a common order was passed.

The Hon'ble court have further held that, if the notice to show cause, reply to the notice and proceedings are common, mere passing of two separate orders on the same date would not render the proceedings under section 14B and 7Q independent of each other. But the order passed in the case of *Gourav Enterprises* has been stayed by the Hon'ble Division Bench of the High Court of Delhi. Hence for the separate orders passed u/s 14B and 7Q, the same cannot prima facie held to be a composite order.

The Registry of this Tribunal has pointed out that the appeal has been filed beyond the prescribed period of limitation. But for the extension of limitation granted by the Hon'ble SC in the suo motto WPC no 3/ 2020, the delay is condoned and there being no other defect the appeal is admitted in respect of the order passed u/s 14B only.

Without delving into the other details as pointed out by the appellant, and taking note of the fact that a cryptic order has been

passed in which no finding on Mensrea, no finding for imposition of interest at the Highest rate has been recorded, it is held that the appellant has a strong case to argue in the appeal and execution of the impugned order in the interest of justice should be stayed pending disposal of the Appeal, otherwise the relief sought in the appeal would be illusory. But at the same time it is held that the said interim order of stay cannot be un conditional. Considering the circumstances and the recovery action already taken, the Respondent is directed to retain 30% of the assessed damage already recovered and refund the balance amount to the appellant within thirty days from the date of this order. There would be stay on the execution of the order passed u/s 14 B of the Act. Call on 08.09.2022 for compliance of the direction and reply by the Respondent.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208  
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.  
Appeal No. 1501(4)2014**

M/s. Heman Associates  
Through None for the Appellant

Appellant

Vs.

APFC, Delhi(S)  
Through Sh. J.K Sinha & Sh. Sunil Ranja, Ld. Counsels for the Respondent

Respondent

**ORDER DATED :- 03/08/2022**

The L.C.R stands submitted on behalf of the Respondent. Taken on record. None is present on behalf of the Appellant. In the interest of justice, the Registry is directed to issue notice to the Appellant for 30.11.2022 which is the next date of hearing in this matter for final arguments.

**Presiding Officer**

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208  
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

**Appeal No. D-1/42/2022**

M/s. Eaton Power Quality Pvt. Ltd.  
Through Sh. Ravi Mishra, Ld. Counsel for the Appellant

Appellant

Vs.

RPFC/APFC-Delhi(S)  
Through Sh. Gurumukh Singh, for the Respondent

Respondent

**ORDER DATED :- 03/08/2022**

The Ld. Counsel for the Appellant submitted that despite of the appeal filing period not being over, the Respondent has recovered the whole amount as mentioned in the impugned order by way of recovery from the bank. The Ld. Counsel for the Respondent submitted that he has knowledge of the attachment of the bank account only and is not aware about any recovery done from the bank account. On this the Ld. Counsel for the Appellant submitted the bank statement showing the debit of the whole amount as mentioned in the impugned order and prayed for the refund of the amount. Heard the arguments on the admission as well as application filed u/s 7 O of the Act. List the matter on 16.08.2022 for pronouncement of order on the same.

**Presiding Officer**

**BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, ROUSE  
AVENUE, DISTRICT COURT COMPLEX, DELHI.**

Present:

Smt. Pranita Mohanty,  
Presiding Officer, C.G.I.T.-Cum-Labour  
Court-II, New Delhi.

**ATA No. 1349(4)2014**

M/s. Maheshwari Gas Services

Appellant

VS.

APFC, Delhi

Respondent

**ORDER DATED :-03/08/2022**

Present:- None for the appellant.

Shri J.K Sinha, Ld. Counsel for the applicant/Respondent.

The record has been put up today for consideration of the application filed by the counsel for the respondent praying recall of the order dated 29.02.2016 wherein this tribunal directed the respondent to be proceeded exparte. Copy of the petition was served on the appellant and proof of service has been placed on record. None appeared on behalf of the appellant on repeated call. Heard the Ld. Counsel for the respondent and perused the record. This is an appeal filed in the year 2016, after 06.09.2019 the appellant is not attending the proceeding. The case was adjourned to different dates thereafter. Thereafter for administrative reason the case was adjourned to different date without any hearing being done and for the outbreak of COVID as well. Ultimately on 25.07.2022 the respondent filed the petition for setting aside the exparte order. During the hearing the Ld. Counsel for the respondent submitted that the exparte order was passed due to the absence of the counsel who was medically ill. For the outbreak of COVID also no step could be taken for setting aside the exparte order immediately. He thereby argued that the default was never intentional. Unless the order is recalled and the respondent department which stands for the cause of the beneficiary workman is given a chance of advancing argument, serious prejudice shall be



caused not only to the respondent department but also to the beneficiaries under the statute.

Considering the submission and the fact that litigant should not suffer for the fault committed in conduct of the case the prayer is allowed. The order dated 29.02.2016 directing the respondent to be proceeded ex parte is hereby recalled. Call on 30.11.2022 for final argument of the appeal.

Presiding Officer

**BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, ROUSE  
AVENUE, DISTRICT COURT COMPLEX, DELHI.**

Present:

Smt. Pranita Mohanty,  
Presiding Officer, C.G.I.T.-Cum-Labour  
Court-II, New Delhi.

**ATA No. 1452(4)15**

M/s. Neel Punj Services

Appellant

VS.

APFC, Delhi

Respondent

**ORDER DATED :-03/08/2022**

Present:- None for the appellant.

Shri J.K Sinha, Ld. Counsel for the applicant/Respondent.

The record has been put up today for consideration of the application filed by the counsel for the respondent praying recall of the order dated 15.03.2017 wherein this tribunal directed the respondent to be proceeded exparte. Copy of the petition was served on the appellant and prove of service has been placed on record. None appeared on behalf of the appellant on repeated call. Heard the Ld. Counsel for the respondent and peruse the record. This is an appeal filed in the year 2015, after 16.11.2018 the appellant is not attending the proceeding. Prior to that when the matter was listed on 15.03.2017 for final argument of the appeal Non appeared for the respondent and the tribunal directed that the respondent be proceeded exparte. The case was adjourned to different dates thereafter. On 23.05.2017 and 16.11.2018 the departmental representative of the respondent appeared and submitted that the respondent wishes to filed an application for recall of the exparte order and the time was allowed. Thereafter for administrative reason the case was adjourned to different date without any hearing being done. Ultimately on 25.07.2022 the respondent file the petition for setting aside the exparte order. During the hearing the Ld. Counsel for the respondent submitted that the exparte order was passed due to oversight and merger of the EPFAT with the CGIT and the default was never intentional.

Unless the order is recalled and the respondent department which stands for the cause of the beneficiary workman is given a chance of advancing argument, serious prejudice shall be caused not only to the respondent department but also to the beneficiaries under the statute.

Considering the submission and the fact that litigant should not suffer for the fault committed in conduct of the case the prayer is allowed. The order dated 15.03.2017 directing the respondent to be proceeded ex parte is hereby recalled. Call on 30.11.2022 for final argument of the appeal.

Presiding Officer

**BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, ROUSE  
AVENUE, DISTRICT COURT COMPLEX, DELHI.**

Present:

Smt. Pranita Mohanty,  
Presiding Officer, C.G.I.T.-Cum-Labour  
Court-II, New Delhi.

**ATA No. D-1/46/2019**

M/s. G. A Digital Web Word Pvt. Ltd.

Appellant

VS.

RPFC-I, Delhi ( E)

Respondent

**ORDER DATED :-29/07/2022**

Present:- Shri Rahul Sharma, Ld. Counsel for the appellant.  
Shri S.N Mahanta, Ld. Counsel for the Respondent.

The matter came up today for consideration of the application filed by the appellant for restoration of the order dated 29.10.2021 passed by this tribunal. Heard the counsel for both the parties and peruse the record. By order dated 29.10.2021 while disposing the application for grant of interim stay this tribunal had directed the appellant to deposit 30% of the assessed amount of the damage through challan within 4 weeks from the date of communication of the order as a pre condition for stay on the execution of the impugned order pending disposal of the appeal. The case was adjourned to 10.12.2021 for compliance of the direction. On 10.12.2021 neither the compliance was reported nor any prayer was made for extension of time and thus, the interim stay granted stood vacated. Now after 7 months the appellant has come up with the present petition for restoration of the order granting stay.

On behalf of the appellant it is explained that for the difficult situation created on account of COVID and its impact on commercial activities the order could not be complied. The appellant has exhibited its bonafide by depositing 30% though at a

belated stage. Hence, the order of the interim stay may be granted and the bank account be de-attached.

In reply the Ld. Counsel for the respondent confirmed deposit of 30% by the appellant on 13.06.2022. But he strongly objected to grant of interim stay on the ground that the deposit made after the time stipulation no way exhibits the bonafides of the appellant. He further submitted that the stay if would be granted will create a bad precedence.

On hearing the submission it appears that the plea of COVID as taken by the appellant for non compliance is not a valid ground as all the activities has resumed normalcy after November 2021. The appellant had never made any prayer for extension of time. The deposit of 30% made much after the time limit granted by the tribunal if would be treated as compliance of the direction, the same will indicate that the appellant has the option of complying the direction on any subsequent date than the time line granted by the tribunal as a pre condition for stay and insist on continuance of stay. In this case the appellant has not come up with clean hands for getting the equitable relief of interim stay.

However, considering the circumstances that the bank account of the appellant has been attached for which the establishment is not able to pay salary to the employees, it is felt proper to issue a direction to the respondent to de-attach the accounts of the appellant bearing no. 012784100000013 maintained with Yes Bank and account No. 542801100050002 maintained with Union Bank of India forthwith to facilitate payment of salary to the employees. But at the same time it is observed that the interim stay granted earlier cannot be allowed to continue solely for the reason that 30% of the assessed amount has been deposited. Thus it is directed that the appellant shall deposited additional 10% of the assessed amount in addition to the 30% already deposited as a pre condition for the interim stay on the execution of the impugned order. This additional deposit shall be made by the appellant latest by 11<sup>th</sup> August, 2022 failing which the respondent authority would be at liberty of attaching the bank

accounts of the appellant again and proceed with the recovery action.

Copy of this order be handed over to counsel for both the parties for Dasti Service. List the matter on 17.08.2022 for reporting compliance.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208  
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

**Appeal No. D-1/01/2022**

M/s. Vibhor Marketing Pvt. Ltd.  
Through Sh. Neha Shrivastav, Ld. Counsel for the Appellant

Appellant

Vs.

ABT, EPFO, Delhi (E)  
Through Sh. S.N Mahanta, Ld. Counsel for the Respondent

Respondent

**ORDER DATED :- 03/08/2022**

The Ld. Counsel for the Appellant submitted written reply to the application filed by the Respondent for modification of the order dated 31.03.2022. Arguments heard. Perusal of the record shows that an amount of Rs. 42,61,473/- stands recovered and out of this an amount of Rs. 33,46,809/- has been credited to the PF account numbers of the identified members.

Accordingly, the order dated 31.03.2022 is modified up to the extent that Respondent shall refund the amount of Rs 9,14,664/- to the Appellant and the Respondent is exempted from depositing the FDR in respect of the 30 % of the assessed amount in this Tribunal. The Respondent is further directed to refund the amount as directed within 15 days to the Appellant from receipt of this order. List the matter on 15.09.2022 for filing reply by the Ld. Counsel for the Respondent. .

**Presiding Officer**

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208  
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

**Appeal No. D-1/111/2019**

M/s. Houte Couture (India)  
Through None for the Appellant

Appellant

Vs.

RPFC & APFC, Delhi (S)  
Through Sh. Rajesh Kumar, Ld. Counsel for the Respondent

Respondent

**ORDER DATED :- 03/08/2022**

More time prayed for submission of the reply by the Respondent. Granted. List the matter on 08.09.2022 for filing reply by the Ld. Counsel for the Respondent as a last chance.

**Presiding Officer**



**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208  
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

**Appeal No. D-1/09/2019**

M/s. Shaka Electrical  
Through None for the Appellant

Appellant

Vs.

APFC, Delhi(E)  
Through Sh. Rajesh Kumar, Ld. Counsel for the Respondent

Respondent

**ORDER DATED :- 03/08/2022**

Reply on behalf of the Appellant stands filed. Accordingly, list the matter on 08.09.2022 for filing rejoinder by the Ld. Counsel for the Respondent.

**Presiding Officer**

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208  
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002  
Appeal No. D-1/48/2019**

M/s. Poly Process Corporation Appellant  
Through Sh. S.S Pandey Ld. Counsel for the Appellant

Vs.

APFC, Delhi(W) Respondent  
Through Sh. Rajesh Kumar, Ld. Counsel for the Respondent

**ORDER DATED :- 03/08/2022**

The Ld. Counsel for the Respondent wants some more to file the reply. List the matter on 08.09.2022 for filing reply by the Ld. Counsel for the Respondent as a last chance.

**Presiding Officer**

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208  
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

**Appeal No. D-1/28/2021**

M/s. Ranutrol Industries Pvt. Ltd.  
Through Sh.S.K Khanna, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Delhi (E)  
Through Sh.Narender Kumar, Ld. Counsel for the Respondent

Respondent

**ORDER DATED :- 03/08/2022**

The Ld. Counsel for the Appellant wants some more to file the rejoinder. List the matter on 08.09.2022 for filing Rejoinder by the Ld. Counsel for the Appellant as a last chance.

**Presiding Officer**

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208  
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

**Appeal No.D-1/34/2021**

M/s. State Council of Educational Research and Training  
Through Sh. Sahaj Karan Singh, Ld. Counsels for the Appellant

Appellant

Vs.

M/s.1. CBT through CPFC 2.APFC, Delhi East  
Through Sh. B.B Pradhan Ld. Counsel for the Respondent.

Respondent

**ORDER DATED :- 03/08/2022**

The Ld. Counsel for the Appellant wants some more to file the rejoinder. List the matter on 11.10.2022 for filing Rejoinder by the Ld. Counsel for the Appellant as a last chance.

**Presiding Officer**

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208  
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

**Appeal No. 771(16)2015**

M/s. Lakhani Arman Shoes Pvt. Ltd.  
Through Sh.Sanjay Kumar, Ld. Counsel for the Appellant

Appellant

Vs.

RPFC, Faridabad  
Through Sh. B.B. Pradhan, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 03/08/2022

The order could not be pronounced in this matter. List the matter on  
21.09.2022 for pronouncement of order.

**Presiding Officer**

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208  
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

**Appeal No. D-2/23/2018**

M/s. Valaya Clothing Pvt. Ltd.  
Through Ms. Neetu Mishra, Ld. Counsel for the Appellant

Appellant

Vs.

RPFC, Gurugram  
Through Sh. Abhik Mishra, Ld. Counsel for the Respondent

Respondent

**ORDER DATED :- 03/08/2022**

List the matter on 29.08.2022 for consideration of the restoration application filed by the Ld. Counsel for the Appellant.

**Presiding Officer**