

**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-1/39/2022

M/s. Janheet Food Safety Foundation

Appellant

Vs.

RPFC/APFC Delhi (West)

Respondent

ORDER DATED 05.07.2022

Office report seen. The appellant has also enclosed the proof of service of this appeal upon the Respondent. List the matter on 11.07.2022 for hearing on the admission of the appeal. Registry is directed to inform the parties accordingly.

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-2/19/2022

M/s. Per Square Feet Real Estate Pvt. Ltd.

Appellant

Vs.

RPFC/APFC Gurgugram (East)

Respondent

ORDER DATED 05.07.2022

Office report seen. The appellant has also enclosed the proof of service of this appeal upon the Respondent. List the matter on 06.07.2022 for hearing on the admission of the appeal. Registry is directed to inform the parties accordingly.

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-2/21/2022

M/s. Kinjal Enterprises

Appellant

Vs.

RPFC/APFC Noida

Respondent

ORDER DATED 05.07.2022

Office report seen. The appellant has also enclosed the proof of service of this appeal upon the Respondent. List the matter on 06.07.2022 for hearing on the admission of the appeal. Registry is directed to inform the parties accordingly.

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-2/23/2022

M/s. Polyplastic Automotive India Pvt. Ltd.

Appellant

Vs.

RPFC/APFC Gurgugram West

Respondent

ORDER DATED 05.07.2022

Office report seen. The appellant has also enclosed the proof of service of this appeal upon the Respondent. List the matter on 11.07.2022 for hearing on the admission of the appeal. Registry is directed to inform the parties accordingly.

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-2/24/2022

M/s. A2Z Infra Engineering Ltd.

Appellant

Vs.

RPFC/APFC Gurgugram

Respondent

ORDER DATED 05.07.2022

Office report seen. The appellant has also enclosed the proof of service of this appeal upon the Respondent. List the matter on 12.07.2022 for hearing on the admission of the appeal. Registry is directed to inform the parties accordingly.

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-2/25/2022

M/s. Louis Berger Consulting Pvt. Ltd.

Appellant

Vs.

RPFC/APFC Gurugram East

Respondent

ORDER DATED 05.07.2022

Office report seen. The appellant has also enclosed the proof of service of this appeal upon the Respondent. List the matter on 12.07.2022 for hearing on the admission of the appeal. Registry is directed to inform the parties accordingly.

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-1/23/2020

M/s. E-Horizons Soft Tech Pvt. Ltd.

Appellant

VS.

APFC, Delhi (South)

Respondent

ORDER DATED :-05/07/2022

Present:- Shri V.K Sharma, Ld. Counsel for the appellant.
Shri B.B Pradhan, Ld. Counsel for the Respondent.

This appeal challenges the order dated 16.05.2019, passed by the RPFC Delhi south u/s 7A of the EPF and MP Act 1952 (herein after referred to as the Act) assessing Rs 71,19,168/- payable by the appellant establishment towards deficit P F dues of it's employees for the period 10/2012 to 10/2016. The plea of the appellant taken in this appeal is that it is an establishment engaged in the business of software and covered under the Act and proper code no has been allotted for compliance of different provisions under the Act. Notice dated 03/08/2016 was served on the establishment to appear and participate in the inquiry to be held 12/08/2016 u/s 7A of the Act as it was noticed that there is deficit in deposit of PF dues for the aforesaid period. On the said day and thereafter the authorized representative of the appellant establishment appeared but could not produce the relevant documents relating to it's employees and the deposits made under the schemes of the Act on account of some technical issues in their office. However on the scheduled date the director of the establishment had appeared before the commissioner and while explaining the reason for non production of documents requested for perusal of the deposit details and other documents of the establishment already available with the respondent department. But the submission was not considered and cost was imposed. The establishment by depositing the cost took adjournment for production of documents. On 22.01.2018 the AR of the appellant appeared before the inquiring officer and submitted the salary slip of the employees for period of inquiry. The same was received but the establishment was further directed to produce the salary/wage register with challans showing deposit of PF contribution. When the establishment was trying to collect the documents as directed, the commissioner proceeded with the inquiry and solely basing upon the report submitted by the EO passed the impugned order in which no reason

has been assigned for giving out the finding nor effort was made to identify the beneficiaries. The commissioner accepted the report of the EO in toto as if the default is in the nature of a Tax liability.

The other stand taken by the appellant is that had been very regular and diligent in making compliance of the statutory deposits in respect of all the eligible employees and due to ignorance also extended the benefits to several excluded employees as well. But the Respondent having no evidence of default on the part of the appellant initiated the inquiry and found omission in deposit on three separate headings such as:-

1. Professional charge
2. Repair and Maintenance
3. Salaries and wages

The A/R of the appellant establishment explicitly disputed the allegation of default or deficit in deposit in his oral submission during his appearance for the inquiry. But the commissioner ignoring the submissions accepted the report of the EO and found the deficit in deposit towards Professional charge, repair and maintenance, salary and wage. While doing so the commissioner had not attempted to identify the beneficiaries to whom the amount has to be given. The order passed by the commissioner without application of mind is not sustainable in the eye of law. Relying on various judgments of the Hon'ble Supreme Court including the case of **Himachal Pradesh State Forest Corporation vs. RPFC reported in 2008LLR 980** and the case of **Sandeep Dwellers Pvt. Ltd. vs. Union of India reported in 2007(3) BOMCR898 on 28th February 2006** as decided by the Hon'ble High Court of Bombay the appellant has pleaded that for quantification of the dues u/s 7A the commissioner is legally obliged to identify the beneficiaries. In absence of such identification the assessment is illegal. The appellant has also relied upon the judgment of Hon'ble Supreme Court in the case of **Kranti Associates Pvt. Ltd. and another vs. Masood Ahmed Khan and others (2010)9SCC 496** to argue that recording of reason in a judicial or administrative decision is meant to serve the wider principal of justice and operates as a valid restraint on any possible arbitrary exercise of judicial and quasi judicial power. In this case the commissioner has not assigned any reason in support of his finding which makes the order again illegal. With such assertion the appellant has pleaded for setting aside the impugned order.

The respondent filed reply refuting the stand taken by the appellant. The main objection taken by the Respondent is that the employees employed indirectly fall well within the definition of employee provided u/s 2(f) of the EPF Act. It has also been pleaded that PF contribution is payable in respect of the charges paid to the

professionals and for repair and maintenance. The said amount paid since has been reflected in the wage register, the appellant made default in making PF contribution over the same. Thereby the LD. Counsel for the respondent describe the impugned order as reasoned order and argued that the said order entails no interference.

During course of argument the learned counsel for the appellant by placing reliance in the case of **Himachal Pradesh State Forest Corporation VS Assistant PF Commissioner, 2008-III LLJ SC 581** and in the case of **Food Corporation of India VS RPF, 1990 LLR, 64, SC** submitted that the commissioner while discharging the function of a quasi judicial authority has been vested with the power of enforcing attendance of witnesses and production of documents required for adjudication. Since identification of beneficiaries is a pre requisite for assessment u/s 7A of the Act, efforts should have been made for the same. But the commissioner acted illegally while making the assessment for non identification of the beneficiaries. He also argued that payment was made to several freelance professionals for the assistance rendered by them. The amount paid to the said professionals cannot be computed towards wage for quantifications of the PF contribution.

The photocopies of the statement of the PF paid for the relevant period and a statement of the bills paid have been filed along with the appeal. These documents clearly show the amount paid to different professionals for the service rendered by them. The appellant has also filed the series of challans showing deposit of PF contribution of its employees on its payroll. Copy of the salary sheet for the period under inquiry have also been filed.

The other argument advanced by the appellant is with regard to non identification of the beneficiaries. The EO while submitting his report of inquiry had made least effort to identify the beneficiaries. Similarly the commissioner while discharging a quasi judicial function never summoned the professionals whom the professional charges were paid as per the record in order to ascertain whether they are the beneficiaries. No explanation in this regard has been offered by the Respondent. The law is well settled that assessment under EPF & MP Act cannot be made as if the liability is the liability at par with Tax. It is well settled that the EPFO is the custodian and Trustee of the subscribers and is duty bound to return the contribution to the subscribers. The purpose of the legislation is not to levy the amount as Tax. Hence identification of the employees who are the beneficiaries for the subscription is a must before the assessment of the dues is made. Besides the view taken by the Hon'ble SC taken in the case of Himachal Pradesh State Forest Corporation referred supra, a similar view has also been taken by the Hon'ble High Court of Bombay in the

case of **CBT, EPFO VS M/S Shakambari Ginning and Pressing Factory, Akola and Another, 2019 LLR,81.**

In this case the impugned order not only suffers from non identification of the beneficiaries, but also lacks the reason behind the assessment made taking the amount paid by the appellant to the professionals for the service rendered and to the persons in charge of maintenance and repair. The Hon'ble SC in the case of **Kranti Associates Pvt. Ltd vs. Shri Masood Ahmed Khan and others, (2010)9 SCC 496**, have held that:-

“insistence on reason is a requirement for both judicial accountability and transparency. If a judge or quasi judicial authority is not candid enough about his decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principle of incrementalism. Reason in support of decisions must be cogent, clear and succinct. A pretence of reason or rubber stamp reason is not to be equated with a valid decision making process”

The impugned order besides non identification of beneficiaries also suffers from want of reasons which makes the order not sustainable in the eye of law and entails to be set aside. Hence, ordered.

ORDER

The appeal be and the same is allowed. The impugned order passed u/s 7A of the EPF and MP Act is hereby set aside. The amount deposited by the appellant as a part of the assessed amount u/s 7O shall be refunded to the appellant in due procedure. Consign the record as per rule.

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-1/15/2022

M/s. First Flight Couriers Ltd.
Through None for the Appellant

Appellant

Vs.

APFC, Delhi(S)
Through Sh. B.B Pradhan, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 05/07/2022

There is one application filed on behalf of the Appellant for restoration of the appeal. As none pressed the application filed on behalf of the Appellant for restoration of the appeal, the present application filed for restoration is dismissed-as not pressed. Inform the parties, accordingly, and thereafter consign the record in the record room.

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-1/16/2022

M/s. First Flight Couriers Ltd.
Through None for the Appellant

Appellant

Vs.

APFC, Delhi(S)
Through Sh. B.B Pradhan, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 05/07/2022

There is one application filed on behalf of the Appellant for restoration of the appeal. As none pressed the application filed on behalf of the Appellant for restoration of the appeal, the present application filed for restoration is dismissed-as not pressed. Inform the parties, accordingly, and thereafter consign the record in the record room.

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. 1065(4)2015

M/s. Prime Services
Through Sh. S.P Arora & Sh. Rajiv Arora Ld. Counsels for the Appellant

Appellant

Vs.

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

Respondent

ORDER DATED :- 05/07/2022

The Ld. Counsel for the Appellant has filed the reply on behalf of the Appellant, to the application seeking review of the order dated 13.01.2022. Copy of the same stands supplied to the Ld. Counsel for the Respondent/Applicant. The Ld. Counsel for the Respondent/Applicant wishes to file rejoinder to the reply supplied today. Time granted. List the matter on 18.10.2022 for consideration of the application filed on behalf of 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. 1051(4)2014

M/s. Santa Events & Exhibition Pvt. Ltd.
Through Sh. B.K Chhabra , Ld. Counsel for the Respondent
Vs.

Appellant

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

Respondent

ORDER DATED :- 05/07/2022

Arguments on the restoration application filed on behalf of the Appellant heard and concluded. List the matter on 23.08.2022 for pronouncement of order on the same.

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. 967(4)2014

M/s. Ascot Hotels & Resorts
Through Sh. S.K Gupta Ld. Counsel for the Respondent
Vs.

Appellant

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

Respondent

ORDER DATED :- 05/07/2022

There is one application filed by the Ld. Counsel for the Appellant under rule 21 of Tribunal rules, 1997 for directions to release the amount deposited with the Respondent. However, the Ld. Counsel for the Respondent has filed the written reply to the said application along with a copy of order dated 03.06.2022 passed by Hon'ble Delhi High Court in W.P.(C) 9409/2022 wherein the Hon'ble Delhi High Court has stated :-

in the meantime, operation of impugned order dated 19.12.2021 shall remain stayed till next date of hearing.

Accordingly, in view of the stay granted by Hon'ble Delhi High Court, the present application cannot be disposed of. Now put up on 03.11.2022 along with further directions received from Hon'ble Delhi High Court in the aforementioned writ petition.

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-1/75/2019

M/s. Veer Arjun Newspapers Pvt. Ltd. Appellant
Through Sh. S.P Arora & Sh. Rajiv Arora, Ld. Counsel for the Appellant

Vs.

RPFC-II, Delhi (N) Respondent
Through None for the Respondent

J.R Sharma & Bhupesh Sharma for the Impleading Applicant

ORDER DATED :- 05/07/2022

Arguments on the miscellaneous application filed for impleadment heard and concluded. There is one request for adjournment filed on behalf of the Ld. Counsel for the Respondent which is taken on record. List the matter on 01.09.2022 for pronouncement of order on the miscellaneous application

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-1/17/2022

M/s. Seasons Furnishings Ltd.
Through Sh. Kunal Arora, Ld. Counsel for the Appellant

Appellant

Vs.

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

Respondent

ORDER DATED :- 05/07/2022

The Ld. Counsel for the Appellant submitted the compliance report of order 04.05.2022 showing deposit of Rs. 2 Lakh. Accordingly, the appeal stands admitted and there shall be stay on operation of the impugned order till finalization of the appeal. List the matter on 10.08.2022 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-1/22/2022

M/s. Walter Bushnell Biotech Pvt. Ltd.
Through Ms. Eccha Shukla, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Delhi (E)
Through Sh. Manu Parashar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 05/07/2022

The Ld. Counsel for the Respondent seeks some time to file the reply. Granted. List the matter on 21.07.2022 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-1/95/2019

M/s. National Association for the Blinds
Through Sh. Sanjay Kumar, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Delhi(N)
Through Sh. Prem Prakash, Ld. Counsel for the Respondent

Respondent

ORDER DATED: - 05/07/2022

The Ld. Counsel for the Respondent submitted that he shall supply the reply today itself and shall be supplying a copy of the same to the Ld. Counsel for the Appellant. Accordingly, list the matter on 24.08.2022 for filing rejoinder by the Ld. Counsel for the Appellant, if reply stands supplied.

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-1/16/2021**

M/s. Bedi & Bedi Associaes Appellant
Through Sh.S.P Arora & Sh. Rajiv Arora,Ld. Counsel for the Appellant

Vs.

RPFC-Delhi (N) Respondent
Through Sh. Rajesh Manchanda, Ld. Counsel for the Respondent

ORDER DATED :- 05/07/2022

The Ld. Counsel for the Respondent earnestly requested for a time of 15 days for filing the reply to the appeal. Granted with a observations that if the reply is not filed on or before next date of hearing the right to reply of the Respondent shall be seized and Respondent be proceeded as ex-parte. List the matter on 27.07.2022.

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-2/16/2022

M/s.Rakushka International Pvt. Ltd. Appellant
Through Sh. Jatinder Nagpal & Ms. Muskan Kaushik, Ld. Counsel for the Appellant

Vs.

RPFC-Gurugram Respondent
Through Sh. Chakardhar Panda, Ld. Counsel for the Respondent

ORDER DATED :- 05/07/2022

Today the matter was listed for admission hearing. The Ld. Counsel for the Respondent filed the reply to the application filed for granting stay as well as application filed u/s 7 O of the Act. Taken on record. Arguments on the admission as well as the miscellaneous applications heard and concluded. List the matter on 05.09.2022 for pronouncement of order on the same. Meanwhile, the respondent authority is directed not to take any coercive measure for recovery of the amount as mentioned in the impugned order till next date of hearing.

Presiding Officer