

**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. 489(4)2016

M/s. Akshara Advertising Ltd.

Appellant

VS.

APFC, Delhi (S)

Respondent

ORDER DATED :-09/05/2022

Present:- Ms. Nitu Mishra, Ld. Counsel for the appellant.
Shri Narender Kumar, Ld. Counsel for the Respondent.

This appeal challenges the composite order dated 29.02.2016 passed by the APFC Delhi South assessing damage and interest of Rs. 2,31,183/- and Rs. 77,109/- respectively for the period March 2005 to May 2013. The plea of the appellant taken in this appeal is that it is an establishment engaged in the business of advertising having its headquarter at Hyderabad. It is duly covered at Hyderabad as well as in Delhi to facilitate deposit of PF Contribution of its employees the appellant was running the business in Delhi for a brief period i.e. year 2010. Since the business did not flourish in Delhi, it is closed down and all the employees left the job with full and final settlement of their dues. Only two employees continued in the payroll and the establishment since the year 2010 continued to pay the administrative charges only though prior to that it was diligent in making deposit of Pf dues of its eligible employees. On 13.07.2015 a showcause notice was issued proposing levy of damage and penal interest amounting to Rs. 3,08,292/- for the period March 2005 to May 2013. In response thereto the authorized representative appeared before the commissioner and filed a written submission explaining the mitigating circumstances for the delay in remittance. They also

sought some time to get the deposit challans reconciled with the days of delays mentioned in the showcause notice. The said time was asked as the inquiry was with regard to a very old period between 2005 to 2013. In the written submission it was explained that short delay in remittance had occurred for a situation beyond the control of the appellant. Since, the business of the appellant did not run very well in Delhi and the clients did not make payment in time the delay occurred. But the commissioner never considered the written submissions received in the office of the respondent on 16.12.2015 and the subsequent dates of inquiry after 05.10.2015 was never communicated to the establishment. On the contrary the commissioner went on to pass the exparte order without assigning reasons for the levy of damage. He calculated the damage as if tax. Citing the various judgments of the Hon'ble Supreme Court and the Hon'ble High Court the appellant advanced argument that reasoning is the basis of the judicial order and the impugned order since doesn't discussed anything about the mensrea mitigating circumstances causing delay and since the commissioner has not assigned any reason as to why the damage at the maximum rate was imposed, the order is patently illegal and liable to be dismissed.

The respondent being noticed appeared through its counsel and filed objection to the grounds taken in the appeal. The main objection taken by the respondent is that the appellant has not filed any document to show that its business in Delhi was for a specific period in the year 2010 and the same was closed in the said year. No intimation was ever given to the respondent regarding closure of the business in Delhi. He also submitted that the mitigating circumstances like loss in business or non release of the bills cannot be taken into account to consider the mitigating circumstances. He also raised serious objection to the stand taken by the appellant that the inquiry for the period 2005 to 2015 was taken after long delay. He argued that in the case of **Nityananda M Joshi vs. LIC of India 1970 (1) SCR 396** the Hon'ble Supreme Court have held that the limitation act has no application to labour laws and the limitation for filing a suit cannot be applied to a proceeding under the EPF and MP Act. He also submitted that the

Hon'ble Supreme Court in the case of Hindustan Times vs. Union of India have held that when the act doesn't contain any provision prescribing the period of limitation for assessment or recovery of damage, the inquiry held in the year 2015 cannot be held vitiated. He also took a stand that the notice was duly served on the respondent and its representative took time to reconcile the challans. Later on no evidence was filed and thus, the commissioner considering the old period of non remittance had rightly passed the impugned order. He thereby argued for dismissal of the appeal.

Perusal of the impugned order shows that the commissioner has not assigned any reason as to why damage at the maximum rate was imposed when the commissioner has the discretion of reducing the same which is evident from the word "May" used in the section 14B of the Act. But at the same time it cannot be lost sight that the appellant establishment during the inquiry had neither placed any document indicating the mitigating circumstances nor filed any evidence to prove that the operation of the business in Delhi was closed in the year 2010. The available records were examined by the commissioner and moreover, the appellant had admitted about the period of delay during the inquiry and in the written objection filed. In the recent judgment of **Horticulture Experiment Station, Gonikoppal, Coorg vs. the RPFC (Civil Appeal No. 2136 of 2012 order dated 23.02.2022)** the Hon'ble Supreme Court have held that the mensrea is not a factor to be considered in a proceeding u/s 14B as the same is a civil liability. The pleas of financial difficulty or loss in business also do not sound convincing in absence of document. It is also not the stand taken by the appellant that the employees share of the contribution was not deducted during the period of inquiry.

The learned counsel for the respondent citing various judgments of the Hon'ble High Court of Gujarat submitted that when the legislature has made no provision for limitation in conduct of a 14B inquiry, it would not be open to the court to introduce any such limitation on the grounds of fairness or justice. He placed reliance in the case of Hon'ble High court of Gujarat in

Gandhi Dham Spinning and manufacturing company limited vs. RPFC and another (1987LabI.C 659GUJ) to argue on the principles that causes prejudice on account of delay in initiation of a proceeding. In the said judgment it has been held that prejudice on account of delay could arise if it was proved that it was irretrievable. In the said judgment it has also been held that for the purpose of section 14B there is no period of limitation prescribed and that for any negligence on the part of the department in taking the proceeding the employees who are 3rd parties cannot suffer. The only question that would really survive is the one whether on the facts and circumstances of a given case the show cause notice issued after lapse of time can be said to be issued beyond reasonable time. The test whether lapse of time is reasonable or not will depend upon the further facts whether the employer in the mean time has changed his position to his detriment and his likely to be irretrievably prejudiced by the belated issuance of such a show cause notice. Not only that, in the case of M/S Hindustan Times Ltd vs Union Of India & Others the Hon'ble SC have held that the legislature has not prescribed a period of limitation for initiation of a proceeding u/s 14B. proceeding initiated after several years cannot be a ground for drawing inference of waiver.

Considering the facts of the present appeal in the light of the principle decided in the above mentioned case, the stand of the appellant that the impugned inquiry was barred by limitation seems not acceptable as there is absolutely no material to presume that belated issue of show cause notice has caused prejudice to the appellant.

Having considered the pleadings of the appellant and submission of the Respondent, I find no merit in the contention of the appellant. In the light of the admitted position that the establishment was paying salary to the employees but not depositing the PF contribution, though deducted from the salary makes it liable for damage and the commissioner has rightly passed the impugned order. Thus, from the totality of the circumstances and the pleas canvassed it is held that the commissioner has not

committed any illegality while passing the composite order u/s 14B and 7Q of the Act entailing interference. Hence, ordered.

ORDER

The appeal be and the same is dismissed on contest. The impugned order passed u/s 14B and 7Q of the EPF and MP Act is hereby confirmed. Consign the record as per Rules.

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. 560(4)2016

M/s. Modern Public School

Appellant

VS.

APFC, Delhi (N)

Respondent

ORDER DATED :-09/05/2022

Present:- Shri Satya Veer Singh, Ld. Counsel for the appellant.
Shri Jai Kumar Sinha, Ld. Counsel for the Respondent.

This appeal challenges the order dated 17/12/2014 passed by the APFC Delhi North u/s 7A of the EPF and MP Act (herein after referred the Act) assessing Rs. 14,15,176/- u/s 7A of the Act payable by the appellant establishment in respect of its employees for the period 08/82 to 6/88.

Being noticed the respondent appeared through its counsel and filed the written objection.

The background facts leading to this appeal in short is that the appellant establishment is an educational institution covered under the Act w.e.f 06/03/1982 pursuant to the notification of the Government of India dated 06/03/1982 bringing the educational institutions under the fold of the Act. On 27/07/1988 a notice was served on the appellant by the respondent for inquiry u/s 7A of the act wherein it was stated that the appellant establishment has not deposited the PF contribution of its employees for the period from August 1982 to June 1988. The appellant appeared before the respondent and filed a written submission stating that it is entitled to exclusion u/s 16(2) of the Act. The said written submission was made to the respondent on 25.08.1988. The appellant was called

upon to lead evidence in support of the contention but the evidence could not be lead as the appellant was not in possession any document to that effect. The assessing officer concluded the matter by order dated 16.01.1989 holding that the establishment is not entitled to the exclusion as claimed and it has been rightly brought under the purview of the Act. Being aggrieved the establishment filed an application for review on 24.02.1989 invoking the provisions of section 7B wherein the order dated 25.01.1989 passed u/s 7A was challenged. The authority under the 7B passed an order rejecting the prayer for review with regard to the exclusion claimed and directed the establishment to produce records in respect of all categories of employees for assessment of the dues of the enquiry period as indicated above. But the establishment could not produce all the records and submitted partially the ledgers and salary registers of the inquiry period. The assessing officer without application of mind by order dated 26.10.1989 quantify the dues amounting to 14,15,176/- and the establishment was directed to deposit the same within 1 month. The appellant again filed a review application against the 7A order dated 26.10.1989. that 7B application was decided with an observation that the application is misconceived to the extent that its seeks review of the order dated 25.01.1989 whereas the provision of review came into force w.e.f 30.06.1989 and any order passed prior to the incorporation of that provision cannot be reviewed u/s 7B. The establishment was again directed to deposit the assessed amount. The respondent without any prior notice to the establishment directed its bankers to remit the amount and in response thereto a demand draft dated 31.01.1995 was prepared by the banker of the appellant and deposited with the respondent. At that point of time the EPF Appellate Tribunal was established w.e.f. 02.06.1997 and the appeal filed before the legal advisor of the Government of India was transferred to the said EPFAT. The Tribunal after hearing the appeal by order dated 03.10.1997 came to hold that the appellant establishment false under the exception provided u/s 16(2) of the Act and not coverable. In the said order the respondent was directed to refund 14,15,176/- recovered from the bank account of the appellant alongwith interest at the rate of

12%. The respondent filed WPC No. 16548 of 2006 before the Hon'ble High Court of Delhi and by order dated 12.03.2009 was passed setting aside the order dated 03.10.1997 passed by this tribunal with a direction that the petitioner (EPFO) is at liberty of deciding the matter afresh giving reasonable opportunity of hearing to the establishment. Thus, the respondent issued fresh notice and after a due inquiry the impugned order dated 17.12.2014 was passed wherein the appellant was held liable to deposit Rs. 14,15,176/- as the unpaid EPF dues of its employees. Being aggrieved the present appeal is has been filed on the ground that the said order is not a speaking order and has been passed without indentifying the beneficiaries. The appellant thus, forcefully argued that in view of the different pronouncements of Hon'ble Supreme Court and the Hon'ble High Courts any order of assessment passed without identification of beneficiaries is illegal and not sustainable in the eye of law.

The respondent in its reply submitted that the appeal is not maintainable in view of the admission made by the establishment during the inquiry. It has also been pleaded that it is a matter of record that the establishment did not produce any document during the assessment and when the document and records are withheld by the establishment the commissioner cannot be held responsible for non identification of the beneficiaries. The other stand taken by the respondent is that the entire amount assessed has already been recovered and on consecutive occasions it has been decided that the establishment well false under the scope of the act. In such a situation the order passed by the commissioner be confirm and the appeal be dismissed. The Ld. Counsel for the appellant in his written notes of argument has stated that the amount determined was without application of judicial mind and the figure arrived at is not the calculations based on the real time wage of the real employees or the actual no. of employees. The said calculation is the outcome of the arbitrary application of average pay paid per month multiplied by the average no. of employees during the period of inquiry. He has further submitted that during the second round of inquiry the appellant establishment after through search could produce the salary register for the period November 1996 to

June 1998 and the Pf Ledger account for the period August 1982 to June 1988. Though the period of inquiry was from August 1982 to June 1988 the squad submitted their report on 21.02.1997 and the inquiry was held on different dates after 17.04.2009 when a fresh notice was issued. Thus, the appellant was not in a position to produce the complete records. The commissioner instead of identifying the real beneficiaries passed the impugned order basing upon the report of the squad only. He placed reliance in the case of **Builder Association of India vs. Union of India and others SLP NO. 8035 of 2016** and **Food Corporation of India vs. RPF 1990(60)FLR 15(SC)** wherein the Hon'ble Supreme Court have clearly held that during the process of inquiry conducted by the respondent organization steps will be taken to identify the workman either engaged by the establishment or through contractors and the EPFO will ensure that the contribution taken from the employer and the employee will actually go to the benefit of the employees concerned. Further in the case of **Himachal Pradesh State Forest Corporation vs. RPF 2008 LLR 980** the Hon'ble Supreme Court have again held that the amount due from the employer will be determined only with respect to those employees who are identifiable and whose entitlement can be proved on the evidence and that in the event the record is not available it would not be obligatory on the part of the establishment to explain the loss.

In this case the impugned order is silent about the identity of the beneficiaries to whom the assessed amount would go. On the contrary the impugned order leads to an inference that the assessment was made taking the average salary paid and the average no. of workers working during the period of inquiry which appears to be an extreme arbitrary decision of the respondent. It seems that the commissioner while passing the order has totally overlooked the principles decided by the Hon'ble Supreme Court in the decisions referred Supra. In the case of **Dwarikesh Sugar Industries Ltd. vs. Prem Heavy Engineering Works (P) Ltd. and another, AIR 1997SC 2477** the Hon'ble Supreme Court have held that :

32 when a position, in law, is well settled as a result of judicial pronouncement of this court, it would amount to judicial impropriety to say the least, for the subordinate courts including the High Courts to ignore the settled decisions and then to pass a judicial order which is clearly contrary to the settled legal position. Such a judicial adventurism cannot be permitted and we strongly deprecate the tendency of the subordinate courts in not applying the settled principles and in passing whimsical orders which necessarily has the effect of granting wrongful and unwarranted relief to one of the parties. It is time that this tendency stops.

In view of the above observation of the Hon'ble Supreme Court this tribunal feels its proper to deals the matter in accordance to the law pronounced in the case of Builder Association, Himachal Forest Corporation and Food Corporation referred supra and conclude that the impugned order is not sustainable in the eye of law for non identification of the beneficiaries during the inquiry by the commissioner.

A demand draft no. 019991 dated 31.01.1995 was received by the respondent from Canara Bank Wazirpur Delhi being deducted from the account of the appellant towards the amount assessed in the previous 7A inquiry for the inquiry period August 1982 to June 1988. That being the amount recovered without identification of the beneficiaries the appellant is held entitled to refund of the same with interest. For the reasons discussed in the preceding paragraphs the impugned order is held illegal and not sustainable in the eye of law. Hence, ordered.

ORDER

The appeal be and the same is allowed. The impugned order dated 17.12.2014 passed by the respondent u/s 7A of the Act against the appellant establishment is hereby setaside. The respondent is directed to refund Rs. 14,15,176/- recovered from the account of the appellant alongwith interest at the rate of 6% per annum from the date of recovery and till the payment is made. The

respondent is further directed to refund the amount within 3 months from the date of this order failing which the amount shall carry interest @ 9% per annum.

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-1/31/2021

M/s. G. S Promoters Pvt. Ltd.

Appellant

VS.

APFC, Delhi (E)

Respondent

ORDER DATED :-09/05/2022

Present:- Shri B.K Chhabra, Ld. Counsel for the appellant.

Shri Narender 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 APFC Delhi , East. Another petition has been filed praying condonation of delay in filing the appeal.

Being noticed the Respondent appeared through it's counsel, filed a written objection to the petition praying interim stay on the execution of the impugned order 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 order dt24.02.2021 passed by the APFC u/s 14B and 7Q of the EPF & MP Act where under the establishment has been directed to deposit Rs. 4,35,364/- as damage and Rs 2,96,126/- as interest for the delayed remittance of the PF dues for the period 1.07.2019 to 30.08.2020.

It has been stated by the appellant that the commissioner by notice dated 06.10.2020 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 a written submission.It was specifically pleaded before the commissioner that the delay was not intentional and for the acute financial crisis faced by the establishment on account of the grim market condition. But the commissioner during the inquiry, without considering the written 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.

The learned counsel for the respondent Mr. Narender Kumar in his reply took serious objection to the prayer of interim stay and

argued that the delay has been admitted by the establishment. He thus argued that no order of interim stay should be granted which would have the effect of negating the very purpose of the beneficial legislation. He also submitted that there are two separate orders passed u/s 14B and 7Q of the Act and as such 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 out come of a common summon and common proceeding and hence a composite order in respect of which appeal is maintainable.

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 Gaurav 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 Gaurav Enterprises has been stayed by the Hon'ble SC. Hence for the separate orders passed u/s 14B and 7Q, the same can not 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, it is thus held that the appellant has a strong case to argue in the appeal. Unless the execution of the order impugned in the appeal assessing damage would be stayed pending disposal of the appeal, 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. Hence the appellant is directed to deposit a nominal amount i.e 25% of the damage assessed within 4 weeks from the date of this order as a precondition for stay of the impugned orders assessing damage by depositing Challan before the EPFO, failing which there would be no stay on the impugned order. Call on 07/07/2022 for compliance of the direction and reply by the Respondent. Interim stay granted earlier shall continue till the next date.

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-1/33/2021

M/s. Green Island Security Network

Appellant

VS.

APFC, Delhi (E)

Respondent

ORDER DATED :-09/05/2022

Present:- Shri B.K Chhabra, Ld. Counsel for the appellant.

Shri Narender 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 its counsel, filed a written objection to the petition praying interim stay on the execution of the impugned order and the matter was heard being argued by the counsel for both the parties.

The appeal has been filed by the appellant, an establishment engaged in supply of security guards to other establishments, challenging the order dated 18.12.2020 passed by the RPFC u/s 14B and 7Q of the EPF & MP Act where under the establishment has been directed to deposit Rs 5,19,585/- as damage and Rs 1,88,442/- as interest for the delayed remittance of the PF contribution of it's employees for the period 12/1999 to 05/2013.

It has been stated by the appellant that the commissioner by notice dt28/08/2020 had called upon the establishment to 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 pointed out the mitigating circumstances leading to delay in remittance. It was specifically pleaded before the commissioner that the delay was not intentional and for the acute financial crisis faced by the establishment on account of the grim market condition. 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. It has been pleaded that the inquiry was initiated at a belated stage in gross violation of the own department circular of the respondent. 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.

The learned counsel for the respondent Mr. Narender Kumar in his reply took serious objection to the prayer of interim stay and argued that the delay has been admitted by the establishment. He

thus argued that no order of interim stay should be granted which would have the effect of negating the very purpose of the beneficial legislation. While pointing out that the establishment during the inquiry opted not to participate, he also submitted that there are two separate orders passed u/s 14B and 7Q of the Act and as such 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 composite order in respect of which appeal is maintainable.

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 Gaurav 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:-

- 5- if the notice to show cause was common
- 6- if common reply was filed by the establishment
- 7- if common proceedings u/s 14B and 7Q were held

8- 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 Gaurav Enterprises has been stayed by the Hon'ble SC. Hence for the separate orders passed u/s 14B and 7Q, the same can not 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, it is thus held that the appellant has a strong case to argue in the appeal. Unless the execution of the order impugned in the appeal assessing damage would be stayed pending disposal of the appeal, 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. Hence the appellant is directed to deposit a nominal amount i.e 25% of the damage assessed within 4 weeks from the date of this order as a precondition for stay of the impugned orders assessing damage by depositing challan before the EPFO, failing which there would be no stay on the impugned order. Call on 07/07/2022 for compliance of the direction and reply by the Respondent. Interim stay granted earlier shall continue till the next date.

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-1/24/2020

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

Vs.

RPFC, Delhi(N) Respondent
Through Sh. Manu Parasar, Ld. Counsel for the Respondent

ORDER DATED :- 09/05/2022

Arguments on the admission as well as application filed u/s 7 O of the Act heard and concluded. List the matter on 14.07.2022 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

**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. 184(4)2014

M/s. Butterflies
Through None for the Appellant

Appellant

Vs.

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

Respondent

ORDER DATED :- 09/05/2022

The Ld. Counsel for the Respondent submitted that today the case is listed for considering the maintainability of the appeal. Further, going through the record it is found that the appeal is pending since 2014 and the pleadings in this matter are complete. Therefore, it shall be appropriate that the question of maintainability be heard during the final hearing of the matter which shall be done on 07.07.2022 without fail. It is made clear that no further arguments in this matter shall be granted.

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-1/73/2019

M/s. Nice International Ltd. Appellant
Through Sh. Pradeep Pandey, Ld. Counsel for the Appellant

Vs.

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

ORDER DATED :- 09/05/2022

List the matter again on 11.07.2022 for consideration of the
miscellaneous application filed u/s 151 CPC.

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-1/2/2019

M/s. Bal Bhawan Public School 1 Appellant
Through Sh. S.P Arora & Sh. Rajiv Arora, Ld. Counsel for the Appellant

Vs.

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

ORDER DATED :- 09/05/2022

Final arguments heard in part. Let the matter be listed tomorrow i.e. 10.05.2022 for continuation of the 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. 201(4)2007

M/s. Bharat Sewak Samaj
Through Ms. Prerna Mehta, Ld. Counsel for the Appellant

Appellant

Vs.

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

ORDER DATED :- 09/05/2022

No time left. List the matter on 30.08.2022.

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. 598(4)2013

M/s. Delhi Book Store Appellant
Through Sh. S.P Arora & Sh. Rajiv Arora, Ld. Counsel for the Appellant

Vs.

APFC- Delhi Respondent
Through Sh. Abhishek, Ld. Counsel for the Respondent

ORDER DATED :- 09/05/2022

No time left. List the matter on 11.07.2022.

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. 705(4)2013

M/s. Cocoon Exports
Through Sh. B.K Chhabra, Ld. Counsel for the Appellant

Appellant

Vs.

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

Respondent

ORDER DATED :- 09/05/2022

No time left. List the matter on 29.08.2022

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. 280(4)2014

M/s. Delhi Book Store Appellant
Through Sh. S.P Arora & Rajiv Arora, Ld. Counsel for the Appellant

Vs.

APFC-Delhi Respondent
Through Sh. Abhikshek, Ld. Counsel for the Respondent

ORDER DATED :- 09/05/2022

No time left. List the matter on 11.07.2022.

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. 62(4)2015**

M/s. Sunil Health Care Ltd.
Through None for the Appellant

Appellant

Vs.

APFC-Delhi
Through Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 09/05/2022

No time left. List the matter on 30.08.2022 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. 1105(4)2015

M/s. Systra Consulting India Pvt. Ltd.
Through None for the Appellant

Appellant

Vs.

APFC-Delhi (S)
Through Sh. Sanjay Agarwal, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 09/05/2022

No time left. List the matter on 29.08.2022 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-1/32/2019

M/s. N & N Chopra Consultants Pvt. Ltd.
Through None for the Appellant

Appellant

Vs.

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

Respondent

ORDER DATED :- 09/05/2022

No time left. List the matter on 30.08.2022 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-1/30/2019

M/s. Suraksha Security Agency
Through None for the Appellant

Appellant

Vs.

RPFC-Delhi(E)
Respondent

Through Sh. Sandeep Vishnu, Ld. Counsel for the Respondent

ORDER DATED :- 09/05/2022

No time left. List the matter on 13.09.2022.

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-1/44/2019

M/s. Servo Tech Electrical
Appellant
Through None for the Appellant

Vs.

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

ORDER DATED :- 09/05/2022

The Ld Counsel for the Respondent submitted that no one is attending the case since last several hearings. Accordingly, the appeal may be dismissed for default on part of the Appellant. Prayer of the Ld. Counsel is allowed and the appeal is dismissed in default. Send the copy of the order to both the parties. Therefore, consign the record to 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-1/76/2019

M/s. Guru Solutions Ltd.
Through None for the Appellant

Appellant

Vs.

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

Respondent

ORDER DATED :- 09/05/2022

No time left. List the matter on 13.09.2022.

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. 402(16)2016

M/s. Home Credit India Finance Pvt. Ltd.

Appellant

VS.

RPFC, Gurgaon

Respondent

ORDER DATED :-09/05/2022

Present:- Shri Nagesh, Ld. Counsel for the appellant.

Shri Satpal Singh, Ld. Counsel for the Respondent.

This order deals with the application filed by the appellant of Appeal No 402(16) 2016, invoking the provisions of Rule 21 of the Tribunal (procedure) Rules 1997 where in a prayer has been made for a direction to the respondent of the appeal for refund of the amount deposited towards the levied damage, in view of the final order passed in the appeal.

Notice of the petition was served on the respondent who has filed a written objection. Argument was heard being advanced by the counsel for both the parties.

The appellant had filed the appeal challenging the order dated 18.02.2016 passed u/s 14B levying Rs 1,02,67,646/-. The appeal was filed on 23.03.2016, and an application was moved praying interim stay on the recovery action pending disposal of the appeal. But before admission of the appeal the appellant was made to deposit the entire amount of damage on 30.03.2016. When the appeal came up for admission the Tribunal while admitting the appeal, granted interim stay on the execution of the order till further order. The appellant thus made a representation before the respondent for refund of the deposited damage amount. But that representation was not considered nor disposed off. There after this Tribunal heard the appeal on merit and by order dated 22.10.2019, allowed the appeal and set aside the impugned order. The appellant again approached the Respondent for refund of the deposited damage amount. But the respondent instead of making refund challenged the order of this Tribunal before the Hon'ble High Court of Punjab and Haryana in a writ petition. The Hon'ble High Court disposed of the matter confirming the order of this Tribunal. Thus the appellant again approached the Respondent for refund of the amount. Since the Respondent did not consider the demand of the appellant / petitioner, the present petition has been filed.

In the reply the Respondent has admitted the stand taken by the petitioner including the fact that the entire amount of damage levied on the appellant establishment is lying deposited with the respondent since 30.03.2016. the only explanation offered is that after disposal of the writ petition by the Hon'ble High Court, confirming the judgment of the Tribunal, one LPA has been preferred before the division bench registered as LPA No. 1110/2021. It was heard on 02.03.2022 and the next date has been fixed to 04.08.2022. In view of the pendency of the LPA the present petition should not be considered by the Tribunal and the same be rejected.

The appellant argued that the Tribunal should exercise the jurisdiction and pass an order necessary for giving effect to the final order passed in the appeal to prevent abuse of process in the given facts of the matter.

There is no ambiguity in the provision of Rule 21 of the Tribunal which deals with the power of the Tribunal to pass orders for giving effect to the orders passed by it and to prevent misuse of the process if the same is felt expedient in the interest of justice. So far the position in this case is concerned the entire damage levied which is more than one crore is lying deposited with the respondent since 30.03 2016 and more than six years have passed in the meantime and the appellant has not earned any interest on the same. More over the final order passed in the appeal has been confirmed by the Hon'ble High Court. Though LPA has been filed the Hon'ble Division Bench have not passed any order of interim stay. In such a situation, no convincing reasons are found in support of the stand of the respondent for retaining the amount till disposal of the LPA. Such retention on the part of the Respondent amounts to unjust enrichment on the part of the respondent and prejudicial for the appellant. Hence the Respondent is directed to refund Rs 1,02,67,646/- which is the amount of damage levied and deposited by the appellant/petitioner just before admission of the appeal. The respondent shall refund the said amount within one month from the date of this order failing which the amount shall carry interest @ 6% from the date of deposit and till the date of actual refund. The order be communicated to both the parties. The petition is disposed of with this direction.

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.
002.**

Appeal No. D-1/13/2021

M/s. Arien Global Lifestyle Pvt. Ltd.
Through Sh. Ravi Ranjan, Ld. Counsel for the Appellant

Appellant

Vs.

APFC-Noida
Respondent
Through Sh. Narender Kumar, Ld. Counsel for the Respondent

ORDER DATED :- 09/05/2022

No time left. List the matter on 01.08.2022.

Presiding Officer