

**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-1/35/2021**

M/s. Bajaj Print Solutions  
Through Sh. Ankit Dwivedi, Proxy Counsel for the Appellant

Appellant

Vs.

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

Respondent

**ORDER DATED:- 13/07/2022**

The Ld. Counsel for the Respondent has filed the reply which is taken on record. Copy of the same stands supplied to the Proxy Counsel appearing for the Appellant. List the matter on 07.09.2022 for filing rejoinder by the Ld. Counsel for the Appellant.

**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. 870(4)2009**

M/s. Standing Conference of Public Enterprises

Appellant

VS.

APFC, Delhi

Respondent

**ORDER DATED :-13/07/2022**

Present:- Shri V.P Singh, Ld. Counsel for the appellant.  
Shri Rajesh Kumar, Ld. Counsel for the Respondent.

The matter came up today for hearing of the application filed by the appellant under Rule 21 of the Appellate The tribunal (Procedure) Rules 1997 and the other application filed u/s 7L(2) of the EPF and MP Act by the respondent. Copy of the petitions being served on the opposite counsels the Ld. Counsel for the appellant has filed written reply. This order is intended to dispose of both the petitions stated above and the submissions made on the same.

An appeal was filed by the appellant establishment challenging the order dated 23.07.2003 passed by the APFC. This tribunal after hearing the matter by order dated 19.10.2016 set aside the impugned order of the APFC, remanded the matter back to the respondent for reassessment. In the said order it was directed that any amount deposited by the appellant establishment on the basis of the said impugned order be refunded within one month from the date of order failing which the amount so deposited shall carry interest @10% from the date of deposit and till the date of realization. Being aggrieved by the order the respondent EPFO filed WPC No. 1663 of 2017 before the Hon'ble High Court. But the Hon'ble Court while dismissing the writ application confirmed the order of this tribunal. As a consequence thereof a fresh

proceeding was started for reassessment u/s 7A of the Act. As per the order of the tribunal the EPFO returned the Principal amount deposited by the establishment but did not pay the interest as directed. Instead, the present application u/s 7L(2) of the Act has been filed by the respondent praying modification of the order dated 19.10.2016 passed by this tribunal.

During course of argument today the Ld. Counsel for the respondent filed the copy of the order dated 12.07.2022 passed u/s 7A by the RPFC after reassessment as directed by this tribunal. He thus, submitted that the earlier order of the commissioner as well as of this tribunal and the order of the Hon'ble High Court have merged. In view of the order dated 12.07.2022 passed u/s 7A the establishment is liable to pay 10,15,792/-. In such a situation the payment of interest should not be insisted upon and the order dated 19.10.2016 be reviewed and modified.

The Ld. Counsel for the appellant took serious objection and submitted that the respondent's stand is baseless for the reason that the order of the tribunal since has been confirmed by the Hon'ble High Court the Tribunal lacks the jurisdiction of modifying the same. He also pointed out that the respondent has carried out the said order by making the reassessment and by refunding the principal amount. The respondent cannot be permitted to avoid payment of the interest.

On hearing the counsels this tribunal is of the view that the provisions of 7L(2) are not applicable to the facts of this case since the same is not intended for rectifying any mistake apparent on the record and for that purpose amendment of the order is required. The petition filed u/s 7L(2) by the respondent being devoid of merit is rejected. At the same time it is felt proper to issue an appropriate direction to the respondent on the basis of the fact pleaded by the appellant in its application filed under Rule 21 of the Act.

Be its stated here that in the order dated 19.10.2016 the tribunal has remanded the matter for reassessment and return of the deposit if any made by the appellant. A time stipulation was

granted for return of the amount without interest. The respondent has carried out the direction given in the said order. The respondent cannot take the privilege of implementing the direction in a part and pray for waiver of the other part of the direction. In that view of the matter it is felt proper to issue a direction to the RPFC Delhi (Central) to appear before this tribunal in person on 17.08.2022 alongwith the relevant records and concerned officers to explain as to why and under what circumstances the specific direction given in the order dated 19.10.2016 for refund of the interest has not been complied yet. The office is directed to send a copy of this order to the RPFC of the concerned region for 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. 352(4)2016**

M/s. Electrolux Kelvinator Ltd.  
Through None for the Appellant

Appellant

Vs.

APFC-Delhi  
Through Sh. Ajay Vikram Singh, Ld. Counsel for the Respondent

Respondent

**ORDER DATED :- 13/07/2022**

This order deals with the application filed by the Respondent of the appeal, praying vacation of the interim stay granted by this Tribunal on the execution of the order impugned in the appeal, the objection raised by the appellant to the said application, and the specific argument advanced by the learned counsel for the respective parties.

Perusal of the record shows that the Tribunal, at the time of admission of the appeal had passed a conditional order of interim stay on the execution of the order challenged pending disposal of the appeal. Since, the appeal is pending for a long period and more than six months have passed since the date of the above said interim stay order, the Respondent, by filing the present petition has prayed for vacation of the stay in view of the order passed by the Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt Ltd & Another vs C B I.

It has been stated in the petition that the Tribunal by order **dt.20.07.2016** has directed that there would be an interim stay on execution of the impugned order on compliance of the condition set out in the order. More than six months have passed since the date of that order and the stay granted has not been extended for a further period by a specific speaking order.

The Hon'ble SC in the case of Asian Resurfacing of Road Agency & Anr vs Central Bureau of Investigation(Crl Appeal No1375-1376/2013 )have held that

Para 36- " At times proceedings are adjourned sine die on account of stay. Even after stay is vacated intimations are not received and proceedings are not taken up. In an attempt to remedy the situation we consider it appropriate to direct that in all pending cases where stay in against the proceedings of a civil or criminal trial is operating , the same shall come to an end on expiry of six months from today unless in an exceptional case by a speaking order the stay is not extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay is more important than having the trial finalized. The trial court where order of stay of civil or criminal proceeding is produced ,may fix a date not beyond six months of the order of stay so that non expiry of the period of stay, proceeding can commence unless order of extension of stay is produced."

In view of the said order and since no extension of stay has been granted by the Tribunal by a speaking order, the stay stands vacated on expiry of six month. Hence an order to that effect need to be passed for clarity .

Having heard the argument and on a mindful reading of the order passed by the Hon'ble SC in March 2018 in the case of Asian Resurfacing it appears that the directions given in para 35 and 36 will apply when

- i. A civil or criminal case is pending in a court, meaning thereby a trial court or the High Court exercising original civil jurisdiction
- ii. The trial has commenced either by framing of issue in a civil trial and or on framing of charge in a criminal trial
- iii. When the High court or civil or criminal Appellate/Revisional court have granted stay on the said trial proceedings and more than six months have passed since the date of order and no extension of stay has been allowed by a speaking order. The aforesaid directions will not apply to cases where a quasi judicial body or Tribunal grants stay.

Here is a situation, where the stay granted has not stayed the trial of any civil or criminal proceeding and the stay is specifically with regard to the recovery proceeding pursuant to a concluded inquiry and decision rendered by a quasi judicial authority, which is under challenge in the appeal.

It is true that the The Hon'ble SC , by their order dt 15<sup>th</sup> October 2020 passed in Asian Resurfacing case have reiterated that whatever stay granted by any court, including High Court, the same automatically expires after a period of six months , unless extension is granted for good reasons as per the judgment of March 2018. But this order can not be read in isolation. A conjunctive reading of para 35 and 36 the judgment of March 2018 and order dt 15<sup>th</sup> Oct 2020, leads to the only meaning that "A stay granted by any court" means and

refers to a stay granted by the civil and criminal Appellate/ Revisional courts mentioned in para36 of the judgment and specifically with reference to a pending civil or criminal trial. It is not applicable to an appeal pending challenging the order passed in an already disposed of proceeding by a quasi judicial authority.

It will not be out of place to mention that the Hon'ble High Court of Bombay in the case of Oracle Financial referred supra have held in clear terms that there being no allegation that the petitioner is responsible for delay , merely relying on the judgment of the Hon'ble SC the stay can not be vacated in an appeal where the stay is in respect of the implementation of an already decided order by a quasi judicial Authority and challenged in the appeal.

In view of the aforesaid discussion, it is held that the petition filed by the Respondent for vacation of stay is without merit and rejected. Call 15.11.2022 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-1/89/2019**

M/s. S.S Engineers & Fabricators Appellant  
Through Sh. Manish Malhotra, Ld. Counsel for the Appellant

Vs.

RPFC-Delhi (N) Respondent  
Through Sh. Ajay Vikram Singh, Ld. Counsel for the Respondent

**ORDER DATED :- 13/07/2022**

The Ld. Counsel for the Appellant asked for an adjournment due to illness of his father. Granted. List the matter on 21.09.2022 for consideration of stay on operation of the impugned 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-1/70/2019**

M/s. Prabhatam Infrastructure Ltd. Appellant  
Through Sh. H.D Sharma, Ld. Counsel for the Appellant

Vs.

RPFC-Delhi (N) Respondent  
Through Sh. Atul Kumar, Ld. Counsel for the Respondent

**ORDER DATED :- 13/07/2022**

In compliance of the order dated 24.03.2021 the Ld. Counsel for the Appellant today filed an FDR amounting to Rs.6,58,000/-. Although, the FDR is filed with a delay, however, in the interest of justice the FDR is taken on record and the appeal stands admitted. Further, there shall be stay on operation of the impugned order till finalization of the appeal. The reply to the appeal stands already filed. List the matter on 07.09.2022 for filing rejoinder by the ld. Counsel for the Appellant.

**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. 300(4)2016**

M/s. Mahila Mangal Swavlamban Appellant  
Through Sh. S.P Arora & Sh. Rajiv Arora Ld. Counsel for the Appellant

Vs.

APFC Respondent  
Through Sh. S.N Mahanta, Ld. Counsel for the Respondent

**ORDER DATED :- 13/07/2022**

The Ld. Counsel for the Respondent pressed his application filed for vacation of stay. Arguments heard and the following order is passed: -

This order deals with the application filed by the Respondent of the appeal, praying vacation of the interim stay granted by this Tribunal on the execution of the order impugned in the appeal, the objection raised by the appellant to the said application, and the specific argument advanced by the learned counsel for the respective parties.

Perusal of the record shows that the Tribunal, at the time of admission of the appeal had passed a conditional order of interim stay on the execution of the order challenged pending disposal of the appeal. Since, the appeal is pending for a long period and more than six months have passed since the date of the above said interim stay order, the Respondent, by filing the present petition has prayed for vacation of the stay in view of the order passed by the Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt Ltd & Another vs C B I.

It has been stated in the petition that the Tribunal by order dt **10.03.2016** has directed that there would be an interim stay on execution of the impugned order on compliance of the condition set out in the order. More than six months have passed since the date of that order and the stay granted has not been extended for a further period by a specific speaking order.

The Hon'ble SC in the case of Asian Resurfacing of Road Agency & Anr vs Central Bureau of Investigation(Crl Appeal No1375-1376/2013 )have held that

Para 36- " At times proceedings are adjourned sine die on account of stay. Even after stay is vacated intimations are not received and proceedings are not taken up. In an attempt to remedy the situation we consider it appropriate to direct that in all pending cases where stay in against the proceedings of a civil or criminal trial is operating , the same shall come to an end on expiry of six months from today unless in an exceptional case by a speaking order the stay is not extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay is more important than having the trial finalized. The trial court where order of stay of civil or criminal proceeding is produced ,may fix a date not beyond six months of the order of stay so that non expiry of the period of stay, proceeding can commence unless order of extension of stay is produced."

In view of the said order and since no extension of stay has been granted by the Tribunal by a speaking order, the stay stands vacated on expiry of six month. Hence an order to that effect need to be passed for clarity .

Having heard the argument and on a mindful reading of the order passed by the Hon'ble SC in March 2018 in the case of Asian Resurfacing it appears that the directions given in para 35 and 36 will apply when

- i. A civil or criminal case is pending in a court, meaning thereby a trial court or the High Court exercising original civil jurisdiction
- ii. The trial has commenced either by framing of issue in a civil trial and or on framing of charge in a criminal trial
- iii. When the High court or civil or criminal Appellate/Revisional court have granted stay on the said trial proceedings and more than six months have passed since the date of order and no extension of stay has been allowed by a speaking order. The aforesaid directions will not apply to cases where a quasi judicial body or Tribunal grants stay.

Here is a situation, where the stay granted has not stayed the trial of any civil or criminal proceeding and the stay is specifically with regard to the recovery proceeding pursuant to a concluded inquiry and decision rendered by a quasi judicial authority, which is under challenge in the appeal.

It is true that the The Hon'ble SC , by their order dt 15<sup>th</sup> October 2020 passed in Asian Resurfacing case have reiterated that whatever stay granted by any court, including High Court, the same automatically expires after a period of six months , unless extension is granted for good reasons as per the judgment of March 2018. But this order can not be read in isolation. A conjunctive reading of para 35 and 36 the judgment of March 2018 and order dt 15<sup>th</sup> Oct 2020, leads to the only meaning that "A stay granted by any court" means and

refers to a stay granted by the civil and criminal Appellate/ Revisional courts mentioned in para36 of the judgment and specifically with reference to a pending civil or criminal trial. It is not applicable to an appeal pending challenging the order passed in an already disposed of proceeding by a quasi judicial authority.

It will not be out of place to mention that the Hon'ble High Court of Bombay in the case of Oracle Financial referred supra have held in clear terms that there being no allegation that the petitioner is responsible for delay , merely relying on the judgment of the Hon'ble SC the stay can not be vacated in an appeal where the stay is in respect of the implementation of an already decided order by a quasi judicial Authority and challenged in the appeal.

In view of the aforesaid discussion, it is held that the petition filed by the Respondent for vacation of stay is without merit and rejected. Call on 15.11.2022 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-2/13/2022**

M/s. AA Foundation for Safety. Appellant  
Through Sh. S.P Arora & Sh. Rajiv Arora Ld. Counsel for the Appellant

Vs.

RPFC-II,(Chhattisgarh) Respondent  
Through Sh. B.B Pradhan, Ld. Counsel for the Respondent

**ORDER DATED :- 13/07/2022**

Arguments on the admissibility of the appeal before this Tribunal heard and concluded. List the matter on 13.09.2022 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. D-2/14/2022**

M/s. BHP Infrastructure Pvt. Ltd. Appellant  
Through Sh. J.R Sharma & Sh. Bhupesh Sharma, Ld. Counsels for the Appellant

Vs.

APFC, Faridabad Respondent  
Through Sh. Chakardhar Panda, Ld. Counsel for the Respondent

**ORDER DATED :- 13/07/2022**

Arguments on the stay application filed by the Ld. Counsel for the Appellant heard and concluded. List the matter on 13.09.2022. Meanwhile, the interim order to continue, 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. D-2/28/2021**

M/s. Sweta Estates Pvt. Ltd.  
Through None for the Appellant

Appellant

Vs.

RPFC, Delhi (E)  
Through None for the Respondent

Respondent

**ORDER DATED :- 13/07/2022**

The Ld. Counsel for the Respondent has requested for an adjournment. The Ld. Counsel for the Appellant has filed the compliance report through e-mail. Taken on record. Accordingly, the appeal stands admitted and there shall be stay on operation of the impugned order till finalization of the appeal. Further, the Ld. Counsel for the Respondent has filed the reply to this appeal with the Registry to this Tribunal which is taken on record. Accordingly, list the matter on 31.08.2022 for filing rejoinder by the Ld. Counsel for the Appellant.

**Presiding Officer**