

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL/EMPLOYEES**  
**PROVIDENT FUND APPELLATE TRIBUNAL, JABALPUR**

**EPF Appeal No.- 14/2019**

**Present – P.K. Srivastava**

**H.J.S. (Retd.)**

**Compact Security Services,  
Through, Proprietor,  
Mr. Santosh Chaturvedi,  
S/o Shri Ramchandra Chaturvedi,  
312, 3<sup>rd</sup> Floor, Krishna Plaza,  
Main Road, Bhopal (M.P.)**

**Appellant**

V/s

**Regional Provident Fund Commissioner,  
Employees Provident Fund Organization,  
Regional Office, 59 Arera Hills,  
Bhopal (M.P.)- 462011**

**Respondent**

**Shri Uttam Maheswari**

:

**Learned Counsel for Appellant.**

**Shri Harshit Patel**

:

**Learned Counsel for Respondent.**

**JUDGMENT**

**(Passed on 24<sup>th</sup> day of April, 2026)**

**The present appeal is directed against** the order dated 06.02.2019, passed by Respondent Authority ***under section 14-B of The Employees Provident Fund & Miscellaneous Provisions Act, 1952***, hereinafter referred to as the '**Act**', whereby the Respondent Authority has held that the Appellant Establishment has defaulted in deposit of PF dues of its employees for the period April, 2017 to March, 2018 and has held Appellant Establishment liable for penalty/damages u/s 14-B of the Act, assessed the amount at Rs. 3,38,335/- vide another separate order, the Respondent Authority has held the Appellant Establishment liable to deposit interest u/s 7-Q of the Act for the delayed deposit of PF dues of

its employees by the Appellant Establishment for the same period assessed at Rs. 3,09,573/-.

**The skeletal facts connected to present appeal** are mainly that, the Appellant Establishment is a licensed contractor which executes works of different organizations and institutions on contract, it employs its workmen for that and is covered under the Act. It is engaged in manpower and security guard to different organizations who pay it the charges from which the wages are paid and statutory dues like EPF is also deposited, it could not deposit the EPF dues of its employees within period from April, 2017 to March, 2018 within time, hence, a show cause notice was issued by the Respondent Authority u/s 7-Q and 14-B of the Act. During enquiry the Appellant Establishment took a plea that in fact it received payments from the organizations, where it had supplied manpower not in time the payments were made by the organization belatedly hence, the PF dues could not be deposited in time. The Respondent Authority did not consider these facts during the enquiry and in recording the impugned findings as well assessment, hence this Appeal.

**Grounds of Appeal**, taken in the memo of appeal are mainly that the penal interest and damages have been imposed by the Respondent Authority without appreciating the fact that otherwise the Appellant Establishment has been depositing PF dues in time for the period under enquiry it could not deposit PF dues in time because the payments from the establishment where it had supplied its manpower and security guards were made by the organization belatedly, the Respondent Authority committed error in law in not appreciating these facts. The Respondent Authority further committed error in law in not appreciating the fact that the Appellant Establishment did not have required *mens rea* behind the belated deposit. The Respondent Authority failed to appreciate that it is not a watchdog rather it has to protect employees and employer, it is not a tax collection body. The impugned findings and assessments have not been correctly recorded in law and fact.

**In its counter to appeal**, the Respondent Authority has taken a case that the statutory welfare legislation, the impugned order has been passed after enquiry conducted by the Respondent Authority, given full opportunity to the Appellant Establishment to present its case and the findings have been recorded correctly in law and fact. Also, it has been

stated that appeal against order u/s 7-Q of the Act is not maintainable before this Tribunal.

In its rejoinder, the Appellant Establishment has mainly reiterated its case.

**I have heard argument** of Mr. Uttam Maheshwari, Learned Counsel for the Appellant Establishment and Mr. Harshit Patel, Learned Counsel for the Respondent Authority. I have gone through the record as well.

On perusal of the record in light of rival arguments following point comes up for determination in the case in hand.

- "1. **Whether the appeal against order u/s 7-Q of the Act is maintainable before this Tribunal?**
2. **Whether the findings of the Respondent Authority with respect to default in deposit of PF dues and the assessments have been recorded correctly in law and fact?"**

**Point for determination No. 1;**

Section 7-Q of the Act is being reproduced as follows:

**7-Q. Interest payable by the employer.** -The employer shall be liable to pay simple interest at the rate of twelve per cent. per annum or at such higher rate as may be specified in the Scheme on any amount due from him under this Act from the date on which the amount has become so due till the date of its actual payment:

*Provided that higher rate of interest specified in the Scheme shall not exceed the lending rate of interest charged by any scheduled bank.*

**And Section 7-I is reproduced as follows:**

**7-I. Appeals to Tribunal.-**

- (1) Any person aggrieved by a notification issued by the Central Government, or an order passed by the Central Government or any authority, under the proviso to sub-section (3), or sub-section (4), of section 1, or section 3, or sub-section (1) of section 7-A, or section 7-B [except an order rejecting an application for review referred to in sub-section (5) thereof], or section 7-C, or section 14-B, may prefer an appeal to a Tribunal against such notification or order.

- (2) *Every appeal under sub-section (1) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed.*

A perusal of these provisions makes it amply clear that no appeal is maintainable before this Tribunal against order under Section 7Q hence holding the appeal not maintainable against order under Section 7Q of the Act, ***this point is answered accordingly.***

**Point for determination No. 2;**

It has been submitted by Learned Counsel for the Appellant Establishment that liability to deposit PF dues is not disputed, the only case of Appellant Establishment is that they did not have to require *mens rea* behind the delayed deposit because they themselves received payments from the organizations where they had deputed their manpower and security guards not in time and when they received payments they deposited the PF dues immediately. This aspect has not been considered by the Respondent Authority hence, the impugned order is bad in law.

Learned Counsel for the Respondent Authority has submitted that the Act is status for welfare of its employees hence any provision which may be capable of two interpretations, the one which favours the employee will be preferred. It is further submitted that in case of civil liability, *mens rea* loses its significance.

Para 32-A and Para 38 (1) of The Employees' Provident Fund (EPF) Scheme, 1952 (in short the **Scheme**) are also being reproduced as follows-

**"32A Recovery of damages for default in payment of any contribution**

- (1) Where an employer makes default in the payment of any contribution to the fund, or in the transfer of accumulations required to be transferred by him under sub-section (2) of section 15 or sub-section (5) of section 17 of the Act or in the payment of any charges payable under any other provisions of the Act or Scheme or under any of the conditions specified under section 17 of the Act, the Central Provident Fund Commissioner or such officer as may be authorised by the Central Government by notification in the Official Gazette, in this behalf, may recover from the employer by way of penalty, damages at the rates given below: —***

TABLE

S.No. (1)	Period of default (2)	Rates of Damages (percentage of arrears per annum) (3)
(a)	Less than two months	Five
(b)	Two months and above but less than four months	Ten
(c)	Four months and above but less than six months	Fifteen
(d)	Six months and above	Twenty-five

*(2) The damages shall be calculated to the nearest rupee, 50 paise or more to be counted as the nearest higher rupee and fraction of a rupee less than 50 paise to be ignored.*

**38 Mode of payment of contributions**

*(1) The employer shall, before paying the member his wages in respect of any period or part of period for which contributions are payable, deduct the employee's contribution from his wages which together with his own contribution as well as an administrative charge of such percentage of the pay basic wages, dearness allowance, retaining allowance, if any, and cash value of food concessions admissible thereon for the time being payable to the employees other than excluded employee and in respect of which provident fund contribution payable, as the Central Government may fix. He shall within fifteen days of the close of every month pay the same to the fund electronic through internet banking of the State Bank of India or any other Nationalized Bank or through PayGov platform or through scheduled banks in India including private sector banks authorized for collection on account of contributions and administrative charge."*

It has been submitted on behalf of the Appellant Establishment that they appeared during the enquiry and took a case that the remittance of the proposed amount under section 7-A of the Act was ignored by the Respondent Authority. Further they ignore this fact that Appellant Establishment is a Self-Finance Institution which imparts education and training to students and does not received any Grant-in-aid. It could not succeed in fulfilling the vacant seats in the Institution due to competitive market and was not sometimes in a position to pay wages to its employees. Learned Counsel for the Appellant Establishment has further submitted that the opening words of section 14-B, show that imposition

of damages is not mandatory rather it is discretionary and inspite of the principles of law laid down by ***Hon'ble Apex Court in case of Horticulture Experiment Station Gonikoppal, Coorg v/s The Regional Provident Fund Commissioner in Civil Appeal No. 2136/2012, (2022) 4 SCC 516***, wherein it has been laid down by a Division Bench of Hon'ble Supreme Court that *mens rea* loose significance in the case of breach of civil liability, the mitigating and aggravating circumstances with respect to late deposit were required to consider by the Respondent Authority by not considering these factors, the Respondent Authority has committed error in law in recording the finding and assessment.

As regards, impugned finding and assessment with respect to order under section 14-B of the Act, Learned Counsel for the Appellant Establishment has referred to judgment of ***Hon'ble High Court of Chhattishgarh, in the case of Regional Provident Fund Commissioner Employees' Provident Fund v/s Bilaspur Spinning Mills & Industries Ltd. & Ors., (2022), SCC Online CHH 635***, in this case, the Single Bench of Hon'ble High Court of Chhattishgarh has after considering the legal effect of ***Hon'ble Apex Court in case of Horticulture Experiment Station Gonikoppal, Coorg v/s The Regional Provident Fund Commissioner in Civil Appeal No. 2136/2012, (2022) 4 SCC 516***, and Judgment of ***Hon'ble High Court of Kerala in the case of Regional Provident Fund Commissioner v/s Bake 'N' Joy Hot Bakery & Anr., (2024) SCC online Ker 11***, in this respect, in these two cases the order of this Tribunal reduced the amount of damages was upheld.

In another judgment ***Hon'ble High Court of Madras in the case of Assistant Provident Fund Commissioner v/s M/s Salem Textiles Limited, W.P. No. 14255/2020 with other writs; neutral citation 2025:MHC:221***, following principles of law have been laid down with respect to 14-B after considering the judgment of ***Horticulture Experiment Station Gonikoppal, Coorg v/s The Regional Provident Fund Commissioner in Civil Appeal No. 2136/2012, (2022) 4 SCC 516***, relevant paragraphs are being reproduced as under:-

***19. From the above stated legal position, in case of Horticulture (Supra), it is quite vivid that mens rea is not an essential element for imposing penalty/damages for breach of civil obligation/liabilities by the Provident Fund authorities. But it is incumbent upon the authorities while imposing damages should consider the other relevant factors***

**namely number of defaults, the period of delay, frequency of default and the amount involved, reason for delay remittance of provident fund contribution, which are paramount duty of the authority while imposing damages which the authority has failed to discharge, therefore, considering these aspects of the matter, the learned Tribunal has passed the impugned order.”**

In other judgment of **Hon’ble High Court of Madras in the case of Assistant Provident Fund Commissioner v/s M/s Salem Textiles Limited, W.P. No. 14255/2020 with other writs; neutral citation 2025:MHC:221, para 7.1 to 7.3** are being reproduced as under:-

**“7.1. It is true that in Employees' State Insurance Corporation (cited supra) and certain other cases, earlier the Hon’ble Supreme Court of India had held that unless it is established that failure to contribute was attributable to mens rea on the part of the employer, levying of damages does not arise. The same was also held in the case dealing with the Provident Fund. This position later stood altered in view of the judgment of the Hon’ble Supreme Court of India in Horticulture Experiment Station, Gonikoppal, Coorg (cited supra), whereby it is held that these judgments did not take into account the earlier authoritative pronouncements and held that mens rea and actus reus are not relevant considerations for levy of statutory damages in these beneficial enactments. Under these circumstances, the matter has been dealt with in detail and answered by the Full Bench of this Court in Sun Pressings (P) Ltd., (cited supra). The Full Bench, speaking through Hon’ble Justice S.S.Sundar, framed the questions in paragraph No.5 and it is useful to extract the same as follows:-**

**"5.This Court, having regard to the scope of Section 14-B, the relevant provisions of the Act, the EPF Scheme, and the arguments on either side relying upon several precedents, found it appropriate to frame the following issues for consideration :**

**(a) Whether an element of mens rea or actus reus is essential for levy of damages under Section 14-B of the Act or whether the default or delay in payment of the EPF contributions by the employer attract levy of damages under Section 14-B of the Act without an element of mens rea ?**

**(b) Whether levy of damages is compulsory in all cases even if it is held that mens rea is not essential ? In what cases levy of damages should be avoided ?**

**(c) What are the principles to be followed while determining the quantum of damages under Section 14-B of the Act ?"**

**7.2. After considering all the relevant decisions in detail, the Hon'ble Full Bench answered the questions and it is relevant to extract paragraph Nos.38 and 39 which read as follows:-"**

**"38. In Para 32-B of the Employee-s Provident Funds Scheme, 1952, the Central Board has authorised to reduce or waive damages. In respect of sick companies, 100% of the damages can be waived. Similarly, waiver of damages upto 100% can be allowed as per the recommendations of the Board of Industrial and Financial Reconstruction (BIFR). There may be situations and variety of reasons which would justify the non-payment of contribution within the prescribed time by the employer. There cannot be a discrimination between a sick company and sick industry which does not fall under SICA. After the SARFAESI Act, to save the industry, an employer may be forced to pay huge amounts by accepting OTS proposals. There may be similar circumstances where the employer has no option but to borrow money from private financiers. A decision of a private employer to save the industry will instantly save the employment of sizeable number of employees. For variety of reasons, there may be default, despite an employer has always been honest but unable to pay the Provident Fund dues. There may be cases where the industrial operation is suspended temporarily or permanently due to power cut or labour strike or other valid reasons. In the absence of surplus funds available with the employer, it is quite possible that an employer is put to helpless situations. Therefore, there cannot be a straight jacket formula or a table which should be prescribed for levying damages under Section 14-B of the Act.**

**39. Therefore, following the principles reiterated by the Hon-ble Supreme Court and different High Courts including our High Court in similar circumstances, this Court hold that Section 14-B of the Act is an enabling provision and it does not envisage any compulsion to levy damages in all cases, and is inclined to frame the following guidelines:-**

**(i) Before levying damages in terms of Section 14-B of the Act, every authority is required to follow principles of natural justice. The particulars of the default, period, etc., and every adverse information that may be relied**

*upon for levying damages should be indicated or furnished to the employer and a fair opportunity should be given to the employer to put forth his case in defence to the proposed action.*

*(ii) The authority, while exercising power under Section 14-B, shall keep in mind that the liability as per the table given in Para 32A of the Scheme, should be treated as upper limit within which damages can be levied for the delay in making contributions by the employer.*

*(iii) In appropriate cases where the employer is able to provide sufficient reasons or cause justifying the delay with verifiable materials, the authority is competent to waive or fix the quantum of damages less than what is shown in the table under Para 32A of the Scheme.*

*(iv) When an employer is not in a position to make payment in order to save the industry from closure or on account of protecting the industry or establishment from being put to face proceedings under the SARFAESI Act or other inevitable circumstances which compels the employer to divert the funds only to save the industry and the employees, there cannot be a levy of damages.*

*(v) The authority under the Act has to consider all the mitigating circumstances including financial difficulties projected by the employer and pass a reasoned order.*

*(vi) When the employer is able to produce all the documents or verifiable material within his reach to substantiate any mitigating circumstance, the authority exercising power under Section 14-B has to pass orders giving reasons, if he is unable to find truth or bona fides in the claim of the employer.*

*(vii) There shall be proper application of mind objectively on the merits of each case and in any case, the authority cannot resort to the arithmetical calculation or for levying damages as per Para 32A of the Scheme without considering the mitigating circumstances.*

*(viii) While assessing the quantum of damages, the past and present conduct of the employer also should be taken note of. For example, there can be levy of damages as per Para 32-A of EPF Scheme in every case when the employer is a chronic defaulter despite having surplus funds or found to have diverted funds.*

***(ix) There may be variety of circumstances to which the employer is put to while managing an industrial establishment or a factory within the purview of the Act. The proviso to Section 14-B gives a special power to the Board to waive damages when a rehabilitation scheme is pending before the BIFR. There may be similar circumstances for the employer of any industry to save the industry from the clutches of private/public financial institutions and the employer might be facing proceedings under the SARFAESI Act. Whenever the employer is forced to make huge amounts by mobilizing funds from other resources to save the industry from closure or to avoid similar situations, such payment need not be considered as an act to avoid payment of provident fund dues.***

***(x)The delay in payments by profit making establishments has to be seriously viewed and every profit making employer is bound to pay the provident fund contributions promptly, unless there are strong reasons or circumstances that prevent the employer from making the payment on the due dates. If there is an element of willful negligence in payment of Provident Fund dues, the Assistant Provident Fund Commissioner or the competent authority can levy damages exercising his discretion.***

***(xi)Though mens rea is not an essential ingredient, there cannot be levy of damages at the maximum limit merely because there is a default. Before levying damages, there must be definite finding or reason, after considering the explanation or reasons given by the employer for the delay in payment of dues and other mitigating circumstances. The discretion vested with the Assistant Provident Fund Commissioner or the competent authority shall be exercised judiciously in tune with the settled principles of law and keeping in mind the interest of the employees concerned."***

***7.3. Thus, it can be seen that the legal position as it holds today is that mens rea or willfulness is not an essential ingredient for invoking Section 14-B and levying damages. However, the same can be a relevant factor as a mitigating circumstance while deciding on the exercise or quantum.***

Thus, in light of judgments, it is established that this Tribunal as well the Authority will be within their powers to look into the mitigating and aggravating circumstances while considering the penal damages under section 14-B of the Act.

From the aforesaid decisions, it is established that though *mens rea* has no relevance in the case of civil liability but since section 14-B itself provides that the damages may be imposed which means that the damages are not mandatory rather they are discretionary, when there is a discretion, the concerned authority has to look into the mitigating and aggravating circumstances. In the case in hand, the Appellant Establishment had pleaded that the delay in deposit was due to late receipt of payments with respect to wages of employees it had deputed in various organizations, from these organizations and was supported by documents, this aspect should have been looked into by the Respondent Authority in recording the impugned findings. It is established that in para 4 of the ground of appeal, the Appellant Establishment has specifically stated this fact which is not denied by the Respondent Authority in their counter to appeal hence atleast this fact is established that the Appellant Establishment had produced documents with respect to late receipt of wages by the different principal employers.

A perusal of the statement, obtained by RTI with respect to receipt of wages by the Appellant Establishment, paid by different principal employers disclosed that the payments were made belatedly, this delay is from less than a week to months.

Para 38 of the Scheme required that the PF dues should be deposited till 15<sup>th</sup> day of next month in which the wages become due since the Appellant Establishment itself got payments regarding wages not in time it was not possible for them to deposit the PF dues within this 15 day period, in light of principles of law laid down in judgment referred to above, the proper course for the Respondent Authority was that he should have considered this fact, in my considered view the date of release of amount by the principal employers should be fictionally deemed to be the date when the wages due only for the purpose of determination of damages u/s 14-B of the Act and further any amount was deposited within 15 days from the date of payments was released by the principal employer for that month there should be no damages u/s 14-B of the Act, for a delay deposit with delay of more than 15 days as stated above, the Respondent Authority will be justified in law to assess it on the basis of para 32-A of the Scheme.

In light of above discussion and findings, the appeal deserves to be allowed. Matter required to be sent to the Respondent Authority to

reassess the damages u/s 14-B of the Act in light of observations made in this judgment.

**Point for determination No. 2 stands answered accordingly.**

No other point was pressed.

In light of the above discussions and findings, following order is passed;

**ORDER**

*Appeal u/s 7-Q of the Act is held not maintainable, the Appellant Establishment is at liberty to pursue remedy before proper forum in this respect as regards the finding with respect to section 14-B of the Act and assessment, they are set aside, the Respondent Authority is directed to reassess the amount u/s 14-B of the Act only with respect to the deposits made by the Appellant Establishment beyond 15 days from the date of remittance of the wages to them by the principal employer on the basis of para 32-A of the Scheme. The matter is remanded to the Respondent Authority accordingly who shall reassess the amount of penalty in light of direction issued after giving reasonable opportunity for hearing to both the parties.*

No order as to cost.

Date:- 24/04/2026

**P.K. SRIVASTAVA  
(PRESIDING OFFICER)**

Judgment Signed, dated and pronounced.

Date:- 24/04/2026

**P.K. SRIVASTAVA  
(PRESIDING OFFICER)**