BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-2, MUMBAI

APPEAL NO. CGIT- 2 / EPFA / 42 /2023

Between:

M/s. Mutual Automative Pvt. Ltd.

Plot No. 90-107, 112/113,

B. U. Bhandari Industrial Estate,

Sanaswadi, Taluka- Shirur,

Pune - 412210 - APPELLANT

V/s.

1. Assistant Provident Fund Commissioner,

EPFO, Regional Office, Pune-I,

Cantonment Board Building,

Golibar Maidan,

Pune – 4114001. - RESPONDENT NO. 1

2. Priyanka Enterprises

Sanaswadi Taluka – Shirur,

Dist – Pune

Pune - 412208. - RESPONDENT NO. 2

APPEARANCES:

FOR THE APPELLANT : Mr H. D. Pithadia. Advocate

FOR THE RESPONDENT NO. 1 : Mr. M. N. Rajput Advocate

FOR THE RESPONDENT NO. 2 : No Appearance

ORDER

(Delivered on 02-07-2024)

In an appeal U/S. 7 (i) of the Employees' Provident Funds and Miscellaneous Provisions Act 1952 the appellant/applicant has filed an application for condonation of delay in filing the appeal.

2. According to the appellant, he received the order dated 29-04-2022 under challenged for the first time on 10-01-2022 through E-mail and thereafter the present appeal has been filed on 28-02-2023 i.e., within sixty days however considering the date of order, the appeal is filed after sixty days. He has a good case on merit therefore requested for condonation of delay in filing the appeal.

3. As against this, the respondent contended that, the order dated 29-04-2022 was uploaded on E-proceeding portal on 06-05-2022. It was a prime responsibility of the appellant to assess the E-proceeding portal of EPFO to check out the updates however he failed. The present appeal filed by the appellant is not within time and ultimately prayed for rejection of the application.

4. I have given anxious thought to the oral submissions advanced on behalf of the parties. There appears no dispute that, the present appeal challenging the order dated 29-04-2022 has been filed on 10-01-2023 i.e., more than two hundred fifty days (more than 8 months) from the date of order under appeal.

Needless to say that, as per Rule 7 (2) of the Employees' Provident Fund Appellate Tribunal (Procedure) Rules 1997, Any person aggrieved by a notification issued by the Central Government or an order passed by the Central Government or any other authority under the Act, may within 60 days from the date of issue of notification of the order prefer an appeal to the Tribunal and as per Proviso, the Tribunal may, if it is satisfied that, the appellant was prevented by sufficient cause from preferring an appeal within the prescribed period, extend the said period by further period of 60 days. In-short an appeal has to be filed within sixty days and on in sufficient ground Tribunal may extend a period of limitation for further period of sixty days.

5. In the case in hand, though it is contended on behalf of the appellant that, they received the order dated 29-04-2022 on 10-01-2023 through E-mail however the said copy of E-mail letter by which the order was sent to the appellant has not been placed on record. Moreover, on perusal of the copy of order available on record it seems that, the copy of order under appeal is a true copy of order and has been downloaded from the computer. It goes to show that, the copy of order was uploaded on the E-proceeding portal and the same was available since 06-05-2022 as submitted by the respondent. In such circumstances and in absence of any evidence such as copy of E-mail as alleged, it is very difficult to accept that, the appellant came to know about the order for the first time on 10-01-2023.

6. It is worthwhile to mention here that, as observed earlier the present appeal has been filed after a period of more than two hundred fifty days from the date of order under appeal and in absence of any sufficient ground, the delay which is more than 120 days as prescribed under the Rules, the appellant is not entitled for condonation of delay in filing the appeal.

In the result, the application for condonation of delay is rejected and thereby the appeal is rejected as time barred and hence disposed of.

Date: 02-07-2024

(Shrikant K. Deshpande)
Presiding Officer
CGIT -2, Mumbai