

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

EPFAppeal No.- 69/2017

Present – P.K. Srivastava

H.J.S. (Retd.)

**M/s Bhoramdeo Sahkari Shakkar
Utpadak Karkhana Maryadit,
Kawardha (Chhattisgarh)**

Appellant Establishment

Vs.

**The Regional Provident Fund
Commissioner,
Employees Provident Fund Organization,
Regional Office Raipur (Chhattisgarh)**

Respondent Authority

Shri Jitendra Nath Nande : Learned Counsel for Appellant.

Shri J.K. Pillai : Learned Counsel for Respondent.

JUDGMENT

Failing aggrieved by a composite order on 18.10.2012 under Section 7Q and 14B of the Act, the Appellant Establishment has preferred this appeal.

The facts connected in brief are mainly that the Appellant Establishment is a Cooperative Society which runs a Sugar Mill for manufacture of Sugar and is covered under the Act. It has been allotted separate PF Code. The Respondent Authority issued a notice on 14.05.2012 alleging that Appellant Establishment defaulted in deposit of EPF dues within time with respect to its employees and asked the Appellant Establishment to show Cause why penalty would not be recovered from them. Before this, the Respondent Authority, vide its order dated 16.08.2011 had held that the Appellant Establishment had not deposit the EPF dues of its employees and had directed the Appellant Establishment to deposit the EPF dues assessed on Rs. 16,07,658/- after conducting the enquiry under Section 7A of the Act. The Appellant Establishment preferred an appeal which was originally registered as EPFA No. 678/19/2011. The Respondent Authority passed the impugned order

under Section 7Q and 14B of the Act without considering the grounds submitted by the Appellant Establishment during the enquiry which is illegal, arbitrary and is against law and fact, hence this appeal.

The grounds of appeal, taken by the Appellant Establishment in their memo of appeal is that, the findings have not been correctly recorded, reasonable opportunity was not granted to the Appellant Establishment during the enquiry, principles of natural justice were not followed. The Respondent Authority acts a prosecutor and judge and the impugned order is not a speaking order.

In counter to its appeal, the Respondent Authority has taken a case that, under the Act and the brief found scheme the EPF dues of the employees are required to be deposit by the Appellant Establishment by the 15th of next month in which the employee has worked and dues were payable to him.

In case of failure of Deposit of EPF dues, the Employee is under legal obligation to pay interest under Section 7Q ad penalty under Section 14B of the Act. According to the Respondent Authority, they received a complaint dated 03.03.2009 in their office that brief benefits were not given to 32 contract workers list included with a complaint. An enquiry was connected in this respect. Filed order was passed on 12.08.2011 holding the dues 16,07,658/- payable to the Appellant Establishment for the period 04/2008 to 03/2009. Three other enquiry and assessments were done against the Appellant Establishment for the period 04/2003, 10/2004, 11/2005 to 05/2007 and 06/2007 respectively in which amount of Rs. 98,87,351/-, Rs. 27,54,858/- and Rs. 31,66,925/- were assessed as EPF dues vide orders dated 24.08.2006, 30.08.2007 and 09.09.2008 respectively. A notice under Section 7Q for interest on EPF dues and penalty for late deposit was issued and an enquiry was conducted in which the Appellant Establishment admitted the default and reinstated to wave the penalty/damages as well interest. Which was refused and amount was assessed as per the Act.

Thus, according to the Respondent Authority there is no error of law or fact in recording the Impugned findings with respect to liability and assessment.

None was present for the Appellant Establishment at the time of argument; hence I have heard arguments of Mr. J.K. Pillai Learned Counsel for

Respondent Authority. He has preferred written submissions also. I have gone through the Written Submissions and the record as well.

On perusal of record in the light of Written Submissions following points arises for determination.

Whether the finding of the Respondent Authority that Appellant Establishment is liable to pay interest and damages on late deposit of EPF dues of its employees as assessed in the impugned order have been correctly recorded.

Section 7Q and Section 14B of the Act is being reproduced as follows:-

7Q. 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.

14B. Power to recover damages.—*Where an employer makes default in the payment of any contribution to the Fund, the Pension Fund or the Insurance 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 or in the payment of any charges payable under any other provision of this Act or of any Scheme or Insurance Scheme or under any of the conditions specified under section the Central Provident Fund Commissioner or such other 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 such damages, not exceeding the amount of arrears, as may be specified in the Scheme:*

Provided that before levying and recovering such damages, the employer shall be given a reasonable opportunity of being heard:

As it is clear from a perusal of the provisions above quoted liability to pay interest on late deposits is a consequential to liability of the Appellant Establishment to deposit EPF dues of its employees which has been decided under Section 7(A) of the Act by the Respondent Authority, details

mentioned in their counter which are not revived from the side of Appellant Establishment. Since, the liability to deposit EPF dues does not cease to exceed under any order, naturally the Appellant Establishment will be under obligation in law to deposit interest on late deposit of EPF dues.

As regards liability to pay damages on late deposit of EPF dues the relevant provision has been reproduced as above, in the case of Horticulture Experiment Station v/s The Regional Provident Fund Officer, Civil Appeal No. 2136/2012 and connect appeals Hon'ble The Supreme Court is held with liability to pay damages or penalty is a civil liability and there is no place of 'mens rea' in asserting this liability. In the case in hand, the liability to pay damages was also not disputed by Appellant Establishment before Respondent Authority rather they request for installments which was refused as it was beyond the powers of Respondent Authority. No other reason whatsoever for late deposit of the EPF dues have been detailed by Appellant Establishment at any stage even before this Tribunal with respect to mitigating circumstances which forces them to delay the deposit of EPF dues.

Hence, in the light of above discussion the impugned findings as well assessment is held to have been correctly recorded and point for determination is answered accordingly.

No other point was pressed. सत्यमेव जयते

On the basis of above discussion and findings, the appeal lacks merits and is liable to be dismissed.

ORDER

Appeal Dismissed.

No order as to cost.

Date:-17/02/2025

**P.K. Srivastava
(Presiding Officer)**

Judgment Signed, dated and pronounced.

Date:-17/02/2025

**P.K. Srivastava
(Presiding Officer)**