

CGIT-1/EPFA/22 OF 2021

08.9.2022

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1**

MUMBAI

Present

Smt.Pranita Mohanty  
Presiding OfficerM/s. First Flight Couriers Ltd ... Appellant  
VsRegional Provident Fund Commissioner ... Respondent  
Thane**Presence:**

For the Appellant : Mr.P.M.Bhagat, Adv

.For the Respondent : Mr.Sunil Surana, Adv.

**ORDER**

This order deals with application filed by the appellant separately seeking an order condoning the period of delay in filing the appeal for the grounds stated therein. Copy of the petition being served on the Respondent the learned counsel appeared and participated in the hearing on the said petition by filing written objection on behalf of the Respondent.

Perusal of the record shows that the registry has raised objection for admission of the appeal on account of delay in filing of the same. It is

seen on record that the impugned order u/s 14B and 7Q were passed by the RPFC Thane on 09/07/2019 and the appellant being aggrieved filed the appeal on 23/02/2021. Thus the Registry has raised objection on the maintainability being barred by limitation.

During hearing the learned counsel for the appellant submitted that the Tribunal has the discretion of extending the period of limitation in appropriate cases if the same is required in the interest of justice and when an acceptable explanation in respect of the delay is submitted. He also submitted that the impugned order passed u/s 14 B and 7Q were never served on the appellant establishment as it has closed down all the business activities w.e.f 21.02.2019, resulting in closure of all its Branch offices, Regd. office and Administrative office and discharge of all the employees except the Directors. It is only when the recovery action was taken and notice u/s 8F was served the appellant could know about the impugned order which was left under the door shutter of the abandoned office and soon there after the appeal has been filed. The appellant thereby submitted that there was no intentional delay on the part of the appellant but the same happened for a situation beyond his control. By filing the postal envelope which bears the seal dt 13/07/2019, he submitted that the appellant soon after the knowledge of the impugned order filed the appeal. Citing closure of business as the cause for want of knowledge, he submitted that the appeal is well within the period of limitation when computed from the date of knowledge and the Tribunal by exercise of its discretion can extend the period of limitation. The appeal involves a valuable right of the appellant and there is a bonafide ground for condonation of delay.

The learned counsel for the respondent in reply submitted that the establishment was participating in the hearing and had produced the records for verification. Being fully aware of the orders passed it acted in a negligent manner in filing the appeal. He further submitted that the Appellant is required to prove each single day of delay with bonafide explanation. He thereby argued for rejection of the application for condonation of delay.

On perusal of the impugned order it is found that the establishment was participating in the inquiry through out. The address of the corporate house of the appellant as per the impugned order passed u/s 14 B&7Q, address described in the appeal and the address in the notice sent u/s 8F are the same. It is not understood as to how the appellant could not receive the impugned orders, but could receive the recovery notice sent in the same address which as per his description in the appeal memo is their current address.

The Hon'ble High Court of Allahabad in the *case of Angoori Devi Inter College vs State of U P (WPC27906/2019)* have held that when the Rule prescribes 60 days time period for filing the appeal, which can be extended for a further period of 60 days by the Tribunal on good and convincing grounds shown the Tribunal is authorized to extend the period of limitation to that extent only and not beyond that.

The circumstances of the present matter shows that the impugned orders were duly communicated to the establishment in the address available in the portal. The plea that recovery action left the appellant in

a state of shock is far from belief as it was very well known to the establishment that the order of assessment is followed by the action of recovery.

As per Rule 7(2) an appeal challenging the order of EPF Authority is to be filed within 60 days from the date of communication of the order which can be extended for a further period of 60 days. Exception to the rule is available only in the circumstances where the statutory authority has not acted in accordance with law or in defiance of the principles of natural justice . As seen from the record the appeal has been filed beyond the period of 120 days, up to which the Tribunal has power to extend the period of limitation.. All these aspects when considered it is found that the appellant had failed to file the appeal within the period of limitation and the explanation offered by him seems not convincing and acceptable. Hence the petition for condonation of delay is held devoid of merit and rejected. As a consequence thereof and the appeal is dismissed as barred by limitation.



PRESIDING OFFICER

CGIT-1 MUMBAI