

CGIT-1/EPFA-12 of 2020

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-1, MUMBAI

Date: 12/11/2020

M/S. BHARAT RAMCHANDRA MEHTA

MUMBAI

- APPELLANT

V/s.

ASSISTANT PROVIDENT FUND COMMISSIONER

THANE

- RESPONDENT

ORDER

Mr.H.L.Chheda, Authorized Representative for the Appellant is present.

Mr.Ravi Ratheesar, Adv present for the Respondent.

The matter was held through video conferencing.

The present appeal is filed by the appellant under section 71 of the EPF & MP Act, 1952 [hereinafter referred to as 'Act'] against the order dated 29.03.2019 passed by the Regional Provident Fund Commissioner, the Respondent under section 14B of the Act.

Along with appeal appellant has filed application for waiver of deposit u/s 7-O of the Act.

An application for condonation of delay has also been filed by the appellant.

Copies have already been furnished to the respondents.



Learned counsel for the appellant submitted that the Appellant has rendered compliance in terms of the enacted legislation made under the Act and Scheme of 1952 as long as the business was running smoothly. Even under financial stress, the appellant establishment keeping in view the hardships of the employees has remitted the monthly provident fund contributions to the fund till permanent closure belatedly. The appellant submitted that the impugned order passed by the respondent commissioner No.1 under Section 14B of the Act,1952 is ex-facie bad in law besides being illogical and illegal which is required to be set aside and quashed. The appellant further submitted that there was non-application of mind on the part of respondent commissioner while passing the impugned order and passed non-speaking and non-reasoned order.

Learned counsel for the respondent while supporting the impugned order submitted that all the grounds taken by the appellant including the jurisdictional grounds are open for consideration during the regular hearing of the appeal. The EPF & MP Act is a beneficial legislation and aims at the benefit of the employees. Any order or stay of the impugned order would defeat the very purpose of the legislation.

At the time of hearing, learned counsel for the respondent Mr.Ravi Ratheesar has not opposed the condonation of delay application. Perusal of the application for condonation of delay reveals that sufficient cause has been mentioned in the application. According to the verdict of Hon'ble apex Court, due to the special circumstances of the pandemic COVID-19, delay condonation application is allowed.

So far as application for stay is concerned, I have gone through the contentions raised by both the parties. The total amount of penal damage is Rs 10,03,210/-



With regard to the application for waiver of deposit under proviso to section 7-O of the PF Act, learned counsel for the Appellant submitted that the respondent commissioner has passed an order u/s 14-B dated 29.3.2019 and has levied penal damages of Rs.10,03,210/- ignoring to summon the appellant to the enquiry proceedings held without issuance of proper notice to the Appellant. When the appellant raised objection to the procedure followed by the respondent No.2, the impugned order was served upon the appellant. The appellant states that the impugned order is neither a speaking nor a reasoned order as the penal damages were levied by the respondent commissioner mechanically in most cursory manner. He also submitted that the balance of convenience is also in favour of the Appellant.

In this case, the damages levied is Rs.10,03,210/- Moreover, appellant has disputed the same on the various grounds mentioned in appeal and waiver applications. All these aspects no doubt makes it a strong arguable case for the appellant. If there would not be stay on the execution of the impugned order certainly that could cause undue hardship to the appellant. At the same time, it is held that the stay shall not be unconditional and it is in these facts and circumstances, it is directed that the appellant shall deposit nominal amount i.e. 10% of the assessed damages as pre-condition for grant of stay within one month from the date of communication of the order failing which there would be no stay order.

It is made clear that the order passed separately u/s 7Q of the Act not being appealable shall not be affected by this interim order of stay.

I hereby pass the following order.



- Appeal is admitted.
- Appellant is directed to deposit 10% of the assessed amount with the respondent within one month from the date of order.
- On depositing 10% of the assessed amount with the respondent within one month from the date of order, the impugned order is stayed.
- The respondent is directed not to take coercive steps till further orders.

fix on 5/2/21 for filing reply.




(JUSTICE R.N. KAKKARY)

PRESIDING OFFICER