

ORDER SHEET

**CENTRAL GOVT.INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR(MP)**

CASE NO. CGIT/LC/EPFA/29/2021

M/s CRM Services India Pvt. Ltd. Indore Vs. RPFC, Indore.

Date of order of proceeding	Order or proceeding with signature of Presiding Officer	Signature of parties or pleaders where necessary
2-12-2021	<p>Matter Taken up.</p> <p>Appellant side represented by learned Sr.Counsel Shri Brian D'Silva and assisted by Advocate Shri Sarabveer Oberoi.</p> <p>Respondent side is represented by learned counsel Shri J.K.Pillai.</p> <p>Perused the report of the Registry.</p> <p>The impugned order under Section 7-A of the Employees Provident fund and Misc. Provisions Act,1952, hereinafter referred to as the word 'Act' was passed on 28-10-2021. Appeal was filed on 29-11-2021, hence is within the period of limitation and can be admitted for hearing.</p> <p>Learned Senior counsel submitted arguments on application of appellant under Section 7 O of the Act,</p>	

seeking waiver of deposit of 75% of the amount in the impugned order.

I have heard arguments arguments of learned counsel for Appellant and also arguments of the respondent counsel on this application, who has vehemently opposed this application.

The learned Senior Counsel for the appellant submitted that the appellant is already paying Rs.58 crores approximately as employees provident fund dues for the period involved. His total responsibility to pay has been fixed around Rs.66 crores by way of adding the amount in the impugned order against which the appeal has been preferred. Learned counsel further made submissions attacking the impugned order on merits and has further submitted that is a fit case in which the appellant deserves waiver of deposit of 75% of Rs. 8,02,84,340 which is involved in the order appealed against.

Learned Counsel further refers to decision of Hon'ble High Court at Bombay in W.P.No.1972 of 2012 **Vidyut Metallics Pvt. Ltd. Vs. RPFC .** In the case referred, an adhoc assessment was made by the RPFC against which the applicant had deposited a sum of Rs. 30276650/-. The final assessment was of total amount of Rs.36438458 wherein the amount under adhoc assessment was included, hence the appellant was held liable by APFC to pay the balance amount of Rs. 6161806/-. An appeal was preferred by the establishment against this order. The Tribunal directed the establishment to pay 50% of the balance amount on

the application of the applicant under Section 7-O of the Act. Hon'ble the High Court keeping in view the fact that the appellant had already deposited a large sum, hence there was no occasion to direct him to deposit 50% of the residual amount.

Learned Counsel for the respondent has vehemently opposed the prayer with an argument that firstly the case referred can be distinguished on facts that when the case is in the stage of admission, it is not a proper stage for discussion the merits of the appeal. His further submission is that the respondent has to pay interest on the amount because this is an amount to be distributed to the workman. Hence accordingly to the learned Counsel for the Respondent, the appellant does not deserve complete waiver from deposits.

After considering the record in the light of rival arguments, I find that the referred case be distinguished from the case in h and on fact because the earlier payments were not made during or after the proceedings by the respondent in compliance of that proceedings. There is substance in the argument of learned Counsel for the Respondent that merits of appeal cannot be looked into in detail at this stage . However, keeping in view that the amount is huge and the nation has undergone severe covid period as well as the conduct of the appellant that he is already being depositing a huge amount as employees provident fund dues since before, the interest of justice will be served , if the appellant is asked to deposit only 40% of the amount in appeal under Section 7-O of the Act.

Accordingly , the appellant is directed to deposit 40% of the amount involved in the impugned order in favour of **Registrar CGIT(payable at New Delhi) within 30 days from today.** On compliance of this condition, the recovery of the remaining amount shall remain stayed.

Respondent to counter within 30 days from today with documents after serving a copy thereof to learned counsel for the appellant. Rejoinder, if any, within 15 days thereafter.

List the case on 11-2-2022.

PRESIDING OFFICER