

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-2, MUMBAI**

APPEAL NO. CGIT- 2 / EPFA /05 /2023

Between:

M/s. Khopoli Municipal Council.

- Appellant

V/s.

Regional Provident Fund Commissioner,

EPFO, Vashi, New Mumbai.

- Respondent

ORDER

(Delivered on 06-08-2024)

This is an application for condonation of delay in filing the appeal.

It reveals that M/s. Khopoli Municipal Council/ applicant-appellant has challenged the legality of order dated 27.02.2022 passed u/s. 14-B & 7-Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 in an appeal filed on 30.11.2022.

According to the appellant/applicant, being a local body each and every decision has to be taken in standing committee more particularly in which the money involved in the matter, however due to non availability of quorum, meeting of standing committee was delayed as such the proposal to file an appeal was approved late and then after administrative sanction the appeal was filed. The present appeal is within 120 days of limitation from the date of receipt



of order thus prayed for condonation of delay in filing an appeal.

The opponent resisted the application by reply. The opponent contended that, there is a delay of about 126 days in filing an appeal. The court has no power to condone the delay beyond 120 days from the date of passing of order and by relying on various decisions prayed for rejection of the application.

I have given anxious considerations to the oral submissions advanced on behalf of the parties.

Needless to say that, as per Rule 7(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, Appellate Tribunal (procedure) Rules 1997, any person aggrieved by order passed by any other authority under the Act may within 60 days from the date of issue of order prefer an appeal to the Tribunal.

Provided that, the Tribunal may, if it is satisfied that, the appellant was prevented by sufficient cause from preferring the appeal within the prescribed period, extend the said period by a further period of 60 days.

The Counsel for the opponent vehemently argued that, the period of limitation starts from the date of passing of order and attempt has been made by quoting various decisions in the reply itself. On perusal of those decisions it is clear that, the power of the Tribunal to condone the delay within 120 days from the date of order.



Whereas the Learned Counsel for the appellant invited my attention to the decision of the Supreme Court in Raja Harish Chandra Raj Singh v/s. The Deputy Land Acquisition Officer and another reported in **MANU/SC/0386/1961**, in which the Apex court of the land has considered the various decisions passed by the various High Courts and thereby concluded that, “where the rights of a person are affected by any order and limitation is prescribed for the enforcement of the remedy by the person aggrieved against the said order by reference to the making of the said order, making of the order must mean either actual or constructive communication of the said order to the party concerned.”

From the above discussed decision of the Supreme Court, it is clear that, the limitation starts from the actual and constructive communication of the order. In the present case the applicant also filed the copy of acknowledgement dated 28.07.2022, which clearly shows that, the order under appeal received by the applicant on 28.07.2022. Not only this but, on the copy of order place alongwith the appeal at Annexure-A, there is an inward stamp of the appellant's establishment showing the date 02.08.2022 therefore it is clear that, though the order was passed on 27.07.2022 but the applicant received the copy of order on 02.08.2023 and the present appeal has been filed on 30.11.2022 i.e., well within 120 days from the date of receipt of order.

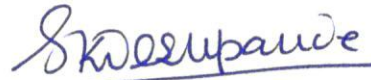
Undisputedly the applicant established a local body and being a local body certain decisions in which the money involved, needs to be approved/sanctioned by the standing

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committee, In my opinion this will be the sufficient ground for filing the appeal late but within 120 days from the date of receipt of order therefore the applicant is certainly entitled for condonation of delay in filing the appeal.

In the result, The application for condonation of delay is allowed. The delay in filing the appeal is condoned. The appeal is admitted.

Date: 06-08-2024



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