

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-2,
MUMBAI

CGIT-2/EPF Appeal No. 111 of 2023

M/s. Sinnar Bidi Udyog Ltd.,

-Appellant

Vs

**The Regional Provident Fund Commissioner-I,
EPFO, Nashik**

-Respondent

ORDER

(Delivered on 15-07-2024)

Read application for refund of amount filed by the appellant. Perused the say given on behalf of the respondent. Heard the parties.

According to the appellant, the appeal challenging the order regarding damages and interest has been filed within sixty days i.e. within prescribed period of limitation on 16.10.2023, still the respondent issued prohibitory order dated 31.10.2023 and recovered the whole amount from bank. The said recovery is during pendency of appeal and without any prior notice therefore illegal thus prayed for refund of whole amount.

As against this, the respondent opposed the application on the ground that, prohibitory order was issued after appeal period and the same is in accordance with the law therefore requested for rejection of the application.

It reveals that, the appellant has challenged the order dated 18.08.2023 passed u/s. 14B and 7Q of the EPF and MP Act 1952 in an



appeal filed on 16.10.2023 and prohibitory order was issued on 31.10.2023. True it is that the appeal has been filed within six days from the date of order. However notice of court, was issued to the respondent on 12.12.2023 returnable on 06.02.2024. There is absolutely nothing on record to show that the notice of court was received to the respondent before 31.10.2023 or the respondent was intimated about the filling of appeal prior to the date of issue of prohibitory order.

I have gone through the decision of our Bombay High Court in L&T – V/s- The Union of India and ors MANU/MH/0099/2013 in which, it has been held that, if the assessee is not responsible for delay in disposal of stay application, the initiation of recovery proceeding would be arbitrary and unfair. True it is that in the case in hand the hearing of stay application was prolonged due to non-availability of the Tribunal and delay cannot be attributable to the appellant. However when the respondent has no information about filling of appeal, then the action of the respondent in issuing prohibitory order cannot be said to be improper or illegal. The appellant could not point out before the court that, knowing fully well about filing of appeal, the respondent issued prohibitory order against the appellant therefore the prohibitory order cannot be said to be illegal and appellant is not entitled for refund as prayed.

In the result, the application is rejected. The parties are directed to co-operate for the final disposal of appeal as early as possible.

Date: 15-07-2024


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