

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-2,
MUMBAI

CGIT-2/EPFA/113 of 2019

M/s. Khyati Apparels.

-Appellant

Vs.

The Assistant Provident Fund Commissioner,

EPFO, Thane.

-Respondent

ORDER

(Delivered on 02-09-2024)

M/s. Khyati Apparels/appellant-applicant has challenged the legality of order dated 20.09.2019 passed u/s. 14-B & 7-Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for-short, "the said Act") and by respondent-opponent in an appeal, which has been filed on 15.10.2019.

According to the applicant in 2017, there was Amnistry scheme initiated by the opponent, as per notification issued under that scheme, only Rs. 1/- was required to pay towards damages. He forgot to pay Rs. 1/- as damages within prescribed period under scheme and deposited the contribution plus Rs. 1/- towards damages, still the Authority passed order of damages and interest. The applicant further added that, the damages levied at the rate fixed and quantified in the summons issued for enquiry and without applying the mind and considering the defence raised in the enquiry, the Authority has passed the order therefore there is a good case on merit thus prayed for waiver for pre-deposit the amount u/s. 7-O of the said Act.

The opponent resisted this application by reply and denied all the contentions of the applicant. The opponent contended that, the applicant failed to pay the dues, interest and damages within the prescribed period and after giving opportunities, the Authority has passed the order u/s. 14-B & 7-Q of the said Act. There is no denial about reason for exceptional circumstances to prove that, the parties are unable to deposit 75% of assessed amount as required u/s. 7-O of the said Act and ultimately prayed for rejection of the application.

It will not be out of place to mention here that, the provisions of Sec. 7-O is applicable only in respect of appeal u/s. 7-A of the said Act and not for appeal u/s. 14-B of the said Act. It has been held by the Apex Court of the land that, there is no pre-condition to indicate that, any part of the amount awarded u/s. 14-B was required to be deposited at the time of filing appeal, as such there is no necessity to direct the applicant to deposit any amount as pre-deposit for appeal u/s. 14-B of the said Act.

However, the present appeal is also against the order of interest u/s. 7-Q of the said Act. Needless to say that, as per Sec. 7-O no appeal by employer shall be entertained by Tribunal unless he has deposited with 75% of the amount due from him as determined by an officer referred in Sec. 7-A of the said Act.

In the case in hand the order u/s. 7-Q of the said Act in respect of interest is also under challenge and considering the nature of dispute and reasons mentioned in the appeal it can be safely said that, the applicant has made out a strong Prima-facie case therefore it will be just to direct the applicant to deposit 50% amount of interest instead

of 75% amount towards the compliance of the provisions of the Sec. 7-O of the said Act.

In the result, the application is allowed. The applicant is hereby directed to deposit 50% amount of interest Rs.51,699/- with the opponent within four weeks from the date of this order.

Dated: 02-09-2024

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