

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

CGIT-2/EPF Appeal No. 15 of 2023

M/s. P. P. Karmayogi Polytechnic College

-Appellant

V/s.

Regional Provident Fund Commissioner-II,

EPFO, Solapur.

-Respondent

ORDER

(Delivered on 13-08-2024)

This is an application for waiver of pre-deposit u/s. 7-O of the Employees' Provident Funds and Miscellaneous Provisions Act, 1972 [herein-after referred to as "the said Act"].

It is contended on behalf of the applicant that, the applicant's college established in 2008, to provide quality technical education for catering the need of modern India and mainly dependent on funds from Government and fees from the students. During April 1996 to March 2022, they received the Government grant belatedly and during March 2020 to March 2022, Lockdown was declared by the Government due to Covid-Pandemic. During that period the education institutions were closed, students were not paying fees regularly therefore Employees' Provident Funds remittance was delayed. It was not deliberate and despite of Government's circular in respect of giving relief from levy of damages, the authority has passed an order u/s. 14-B & 7-Q of the said Act and the same is under challenge in the present appeal. The applicant has good case and likely

SAD

to succeed on merit thus prayed for waiver from pre-deposit as per Sec.7-O of the said Act.

It is submitted on behalf of the opponent that, the appeal as well as application for waiver filed by the applicant are baseless and non-sustainable in Law. It is clear that, the appellant has to deposit entire dues assessed u/s. 7-Q of the said Act before filing the appeal and to deposit 75% dues for the amount in respect of damages and requested for disposal of the application.

I have given anxious consideration to the oral submissions advanced on behalf of the parties in the light of the copies of orders dated 14.10.2022 under appeal. There appears no dispute that, the amounts towards Provident Funds contribution was delayed during the period mentioned in the order i.e., from September 2008 to September 2019 therefore the authority determined the amount of Rs. 13,93,219/- towards interest u/s. 7-Q and Rs. 26,97,789/- towards damages u/s. 14-B of the said Act.

According to the applicant the delay in depositing the contribution amount is because of non-receipt of grant from the Government as well as fees from the students therefore they could not remit the contribution in time. This fact needs to be considered on the basis of documents available more particularly Government circular on record that too while deciding the appeal on merit in such circumstances it can be safely infer that, the applicant has made out a Prima-facie case at the stage.

As regards the appeal in respect of interest amount determined u/s. 7-Q of the said Act it will be just to direct the applicant to deposit the whole amount within 04 weeks from the date of this order, if not paid earlier.

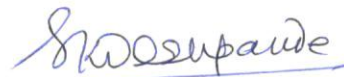


As regards the appeal against the order of damages, Needless to say that appeal u/s.14-B of the said Act will not fall u/s. 7-O of the said Act as per Sec.7-O appeal by employer u/s. 7-A of the said Act shall not be entertained by the Tribunal either he has deposited 75% amount however this clause is applicable only to the order u/s. 7-A and not to Sec.14-B of the said Act.

Moreover during proceeding the applicant made an application Ex-7, and thereby seeking necessary order about de-freezing the Bank A/c. of Shri Pandurang Pratishtan Pandharpur And Karmayogi Polytechnic College Shelve. The opponent strongly objected this application however considering the request I am inclined to direct the opponent to issue letters to the Bank for de-freezing the accounts of the applicant mentioned above only on depositing 50% amount with opponent.

In the result, the application is allowed, the applicant is directed to deposit whole amount of interest of Rs. 13,93,219/- within 04 weeks from the date of order. The opponent is directed to issue letters to the Bank for de-freezing the accounts of the applicant by issuing letters to the Bank only on depositing 50% amount of damages with the opponent.

Date: 13-08-2024


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