

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

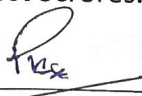
CASE NO. CGIT/LC/EPFA/02/2022

| Date of order of proceeding | Order or proceeding with signature of Presiding Officer  | Signature of parties or pleaders where necessary |
|-----------------------------|--|--|
| 13-1-2022                   | <p>Taken up through vide conferencing.</p> <p>Shri K.N.Pethia, learned Counsel for the appellant.<br/>Shri J.K.Pillai, learned counsel for the respondent.</p> <p>Perused the report of the Registry.</p> <p>The impugned order is passed on 24-12-2021 and the appeal has been filed on 11-1-2022, hence within limitation</p> <p>The learned counsel for appellant pressed his application under Section 7(o) of the Act and his I.A. for stay on recovery during pendency of appeal which is supported with an affidavit.</p> <p>The Respondent side has filed reply with affidavit submitted on the email id of the Tribunal and photocopy kept in the file.</p> <p>I have heard learned counsel from both the sides through video conferencing on an application under Section 7-O of the Act and I.A. I have gone through the record as well.</p> <p>The main grounds taken for waiver from deposit of 75%</p> |  |



of amount under Appeal in application under Section 7-O is mainly first on merits and secondly on the basis of financial inability on the part of the Appellant Establishment to deposit 75% of the amount under appeal. It has been submitted by learned counsel for the appellant that in the case in hand, the prescribed procedure for initiating/conducting the inquiry was not followed, copies of documents relied upon by the Respondent Authority in the impugned order were not supplied to Appellant inspite of requests, hence, principles of Natural Justice were violated during the hearing. The amount under appeal was assessed by the Enforcement Officer in his report which was relied by the Respondent Authority without giving the appellant an opportunity to challenge it, which is an illegality on the part of the Respondent. Allowances like overtime which were to be excluded as per law were wrongly taken as conveyance allowance, hence according to the Appellant there is prima facie substance in appeal and the Appellant has fair chance to succeed, if the appeal is at present decided on merits.

Regarding the second arm of the argument with respect to the financial inability submitted by the learned counsel for the appellant that the appellant establishment has been regularly paying the employees provident fund dues. The amount of employees provident fund dues under appeal is additional responsibility thrown on the appellant. The appellant has to regularly pay other taxes and wages of its employees and in this covid-19 period, he is not in a position to manage 75% of such huge amount which is almost 3crores.



Countering the argument, the learned counsel for the Respondent has submitted that the merits of the appeal cannot be gone into at the stage of entertaining the appeal for hearing, rather it will be seen when the appeal is heard on merits because his submission is that there is nothing on record to show that the appellant is facing financial crunch and is not in a position to deposit 75% of the amount under appeal. He further submits that the appellant could show it by producing its balance sheet or other documents relating to it which is not done in this case. Accordingly, learned counsel for the Respondent has submitted that the appellant establishment in this case does not deserve any waiver of amount under Section 7-o of the Act.

I have perused the record in the light of the rival arguments and I am of the view that the learned counsel for the appellant has been successful in raising some points to be considered regarding the merits of the impugned order, hence it can be said that he has prima facie case at this stage in his favour. It is undisputed that the merits of the appeal cannot be looked into at this stage of admission as has been submitted by learned counsel for the Respondent. As regards the financial crunch submitted by learned counsel for the appellant establishment, keeping in view that the appellant has been regularly depositing the employment provident fund dues and the amount under appeal is additional assessment and also that there has been a litigation between the parties on the points raised from the side of the appellant before Coordinate Benches of this Tribunal and before Hon'ble High Court as well. The fact that the amount under Appeal is also huge, I am of the

  
\_\_\_\_\_

considered view that interest of justice will be served if the appellant establishment deposits only **40% of the amount under appeal in favour of Registrar CGIT(Payable at Jabalpur) within 30 days from today.**

The appeal may be entertained for hearing. Hence order accordingly. On compliance of this condition, in time, there shall be a stay on recovery of any amount under this appeal.

Respondents to counter within 4 weeks from today with documents after serving a copy thereof to learned counsel for the appellant. Rejoinder if any, within 2 weeks thereafter.

List the case for final arguments on 25-3-22

  
**PRESIDING OFFICER**