

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-2,
MUMBAI

CGIT-2/EPFA/34 of 2021

M/s. Premier Builders Goa Pvt. Ltd.

-Appellant

Vs.

The Regional Provident Fund Commissioner-I,

EPFO, GOA.

-Respondent

ORDER

(Delivered on 06-08-2024)

Read applications filed by the appellant/applicant. Perused the say filed on behalf of the respondent/opponent.

It is submitted on behalf of the applicant that, the order dated 05.04.2021 / 13.04.2021 passed u/s. 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short "the said Act") is challenged in the present appeal on 27.07.2021. This fact was informed to the opponent vide letter dated 02.08.2021 and the court summons was also issued to the opponent, still without waiting for the outcome of the pending appeal, the opponent initiated the recovery proceeding by issuing order u/s. 8-F dated 03.03.2022 to the Punjab National Bank, Panaji Branch and illegally recovered the amount of Rs. 08,19,034/- and accordingly informed by letter dated 10.03.2020., as such the act of the opponent in respect of the recovery of assessed amount during pendency of the appeal is coercive and illegal, thus the applicant prays for refund of whole amount illegally recovered by the opponent.

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The opponent resisted the application by reply. It is contended on behalf of the applicant that, the opponent initiated the recovery process based on order dated 05.04.2021 / 13.04.2021 and there was no stay from the Tribunal against the said order under appeal therefore the assessed amount in the order has been recovered. Non-availability of the Tribunal does not come under purview of the said Act as dues assessed pertains to members of PF contributions, which were not remitted by the employer in the members PF accounts as such there is no illegality as alleged and ultimately prayed for rejection of the application.

It will not be out of place to mention here that, though the appellant/applicant has filed an appeal against the order dated 05.04.2021/13.04.2021, however there is no compliance of the provisions of Section 7-O of the said Act, therefore in my opinion mere filing of appeal without obtaining interim relief or restraining order from the Tribunal shall not prohibit the opponent from the process of recovery of amount.

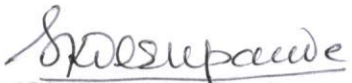
True it is that, after recovery of whole assessed amount in the order under appeal, now the appeal became infructuous that too without considering the points raised by the applicant in an appeal and without deciding the appeal on merit. To my mind it will be great injustice to the applicant, in such circumstances and more particularly in the light of fact that, the pre-deposit amount as per Section 7-O of the said Act has not been deposited by the applicant at the time of filing an appeal, it will be just to direct the opponent to refund the 50% amount assessed and which was recovered from Bank Account of the applicant and keep the

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remaining 50% amount towards compliance of the provisions of Section 7-0 of the said Act.

In the result, the application is partly allowed. The opponent is directed to refund 50% of amount assessed in the order under challenged, to the applicant within a period of four weeks from the date of this order and keep the remaining 50% of amount towards the compliance of the provisions of the Section 7-O of the said Act.

Dated: 06-08-2024


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