

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-2,
MUMBAI

CGIT-2/EPFA/37 of 2022

M/s. Jolly Offset

-Appellant

Vs.

The Assistant Provident Fund Commissioner-I,

EPFO, Mumbai.

-Respondent

ORDER

(Delivered on 12-08-2024)

M/s. Jolly Offset/ appellant-applicant has challenged the legality of order dated 28.04.2022 passed u/s. 14-B & 7-Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short "the said Act") and by this application prays for stay to the effect and operation of the order under appeal during pendency of lis.

It is contended on behalf of the applicant that, the applicant is in business of printing press since 1979, however development of Information Technology and demand of consumer, it is very difficult for the applicant to continue in Digital era, efforts were taken by modernizing new printing equipments but unable to cope-up therefore it was difficult to pay the wages in time and delay in making the compliances. It is further contended that, combined summons dated 27.06.2017 was issued u/s. 14-B & 7-Q of the Act but without offering reasonable opportunity, the authority passed an order without considering the point raised in reply and on the basis of virtual hearing which was not possible

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for the applicant as such the order under appeal is in violation of prescribed procedure of Law and illegal.

It is submitted on behalf of the opponent that, the applicant has not deposited 75% amount as required u/s. 7-O. The appeal against the order u/s. 7-Q is not maintainable, the allegation made in the application are baseless and non-sustainable in Law and ultimately prayed for rejection of the application.

I have given anxious consideration to the oral submissions advanced on behalf of the Parties, in the light of copy of order under appeal. On careful perusal of the copy of order under appeal it reveals that, the enquiry was concluded Ex-parte. It further reveals that, the applicant requested for personal hearing but the opponent insisted for virtual hearing to which the applicant was not ready for want of adequate knowledge. The applicant submitted written representation on 07.06.2018 however though the copy of representation is a part of record, there is no whisper about the same in the order as such the enquiry being Ex-parte that too without considering the representation made by the applicant, it can be safely said that, there is sufficient ground to consider these aspects while deciding the appeal on merit therefore it can be safely said that, the applicant has made out the Prima-facie case at the stage.

Furthermore considering the other facts and circumstances of the case, in my opinion the balance of convenience lies in favour of the applicant and considering the comparative hardship as the amount involved is in respect of damages only, the applicant is certainly entitled for stay to the effect and operation of the order in respect of damages

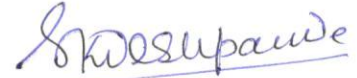


under challenge. Moreover the applicant is directed to deposit the amount of Rs. 47,228/- towards interest with the opponent within a period of 04 weeks from the date of this order.

In the result, the application is allowed. The applicant is hereby directed to deposit the amount of Rs. 47,228/- towards interest with the opponent within a period of 04 weeks from the date of this order.

The opponent is directed to stay the effect and operation of the order in respect of damages under appeal till the disposal of the appeal on merit.

Dated: 12-08-2024



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