

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

CGIT-2/EPF Appeal No. 75 of 2023

M/s. Karmayogi Vidyaniketan, Pandharpur

-Appellant

Vs.

The Regional Provident Fund Commissioner-II,

EPFO, Solapur.

-Respondent

ORDER

(Delivered on 06-08-2024)

Read applications for waiver, stay of Recovery Certificate and Notice of Demand filed by the appellant/applicant. Perused the say given by the respondent/opponent.

Heard both the Parties.

It is submitted on behalf of the applicant that, the establishment of the applicant is a private unaided school, run by trust to provide quality education to the rural students and totally dependent on fees from students and funds from the Government. They did not receive the funds in time and not received school fees from the students. During March 2020 to March 2022 there was complete Lockdown due to Covid Pandemic declared by Maharashtra Government, educational institutions were totally closed, students were not in position to pay regular fees on time, as such the remittance of PF contributions was delayed. The delay is not deliberate nor willful still the authority without considering these aspects passed the order u/s. 14-B & 7-Q of the

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Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short "the said Act") thus the order under appeal is illegal. It is further submitted on behalf of the applicant that, the application for stay to the order under appeal was pending for hearing. During pendency, entire arrears payable u/s. 7-Q has been cleared, still the bank accounts of the trust are attached vide letter 03.10.2023 due to that, the entire functioning of the trust is stalled thus the applicant prays for waiver as well as direction to the stay to the Recovery based on order under appeal and also for de-freezing the bank account.


It is contended on behalf of the opponent that, even after summons u/s. 14-B dated 05.04.2023, reasons for delayed remittance of contributions beyond controlled was not communicated in advance and after the enquiry the order for damages has been passed. The liability imposed on the applicant is strict liability as such there is no illegality in the order under appeal thus stay may not be granted unconditionally and direct the applicant to deposit 50% of assessed amount of damages.

I have given anxious consideration to the oral submissions advanced on behalf of the Parties. Undisputedly the applicant has challenged the legality of order dated 05.04.2023, passed u/s. 14-B & 7-Q of the said Act, similarly it is not disputed that, the applicant has deposited the entire amount of interest assessed u/s. 7-Q of the said Act. True it is that in case of appeal against the order passed u/s. 7-Q of the said Act, it is mandatory on the part of the appellant/applicant to deposit 75% amount determined by the authority and the Tribunal for reasons waive or reduce the amount. In the case in hand, the applicant has deposited entire amount assessed u/s. 7-Q of the said Act with the respondent so there is no question of

depositing 75% of amount assessed u/s. 7-Q of the said Act before the court.

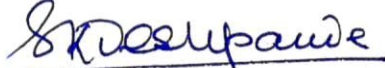
On perusal of the pleadings of the Parties in the light of order under appeal it seems that, due to non-receipt of grant from the Government timely, as well as non-recovery of school fees from the students and also due to complete Lockdown period of Covid, the remittance of contributions of PF was delayed. True it is that, these reasons should be established by way of documentary evidence while deciding the appeal on merit, but it can be safely said at this stage that, the applicant has made out a Prima-facie case. Similarly considering the other facts and circumstances of the case, in my opinion the balance of convenience lies in favour of the applicant therefore the applicant is certainly entitled for stay to the recovery based on order u/s. 14-B of the said Act.

In the light of decision of Kerala High Court reportedly 2015 SCC Online I am directing the applicant to deposit 20% of the amount of damages assessed by the authority by Demand Draft with the opponent within a period of four weeks in between the opponent is directed to communicate the bank to de-freeze the Bank account of the applicant immediately the opponent is further directed not to act on the Recovery certificate dated 21.11.2023 and Notice of Demand dated 01.12.2023 based on order under appeal till the disposal of the appeal on condition of depositing 20% of amount.

 In the result, the applications are allowed. The opponent is directed not to proceed with the Recovery certificate dated 21.11.2023 and notice of Demand dated 01.12.2023 till the disposal of the appeal only on condition of depositing 20% of amount

of damages assessed in the order u/s. 14-B within a period of four weeks from the date of this order. The opponents are further directed to issue letter to the concerned bank for de-freezing bank account of the applicant immediately.

Dated: 06-08-2024


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