

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

**APPEAL NO. CGIT- 2 / EPFA /76 /2022**

Ritu Sanjay Chhabria.

- Appellant

V/s.

1. The Assistant Provident Fund Commissioner,  
EPFO, Bandra.

2. M/s. Reliable Foundation LLP, Bandra. - Respondent

**ORDER**

**(Delivered on 26-08-2024)**

Read application for condonation of delay in filing the appeal. Perused the say given on behalf of the opponent.

Heard both the Parties.

It reveals that, the appellant-applicant has challenged the legality of the order dated 31.12.2021 passed u/s. 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for-short, "the said Act") by the respondent-opponent, in an appeal filed on 03.10.2022 as such there is delay in filing the appeal.

According to the appellant-applicant, he filed a review application however the same was rejected by order dated 06.07.2022. He was not well-versed with the provisions of the said Act, he was searching the Counsel and thereafter the appeal has been filed before the Court. The delay in filing



the appeal is of 89 days and the same is not intentional nor deliberate.

True, it is that as per the said Act, any aggrieved person may within 60 days from the date of issue of order prefer an appeal to the Tribunal and provided that, Tribunal may if it is satisfied that, the appellant was prevented by sufficient cause from preferring the appeal within prescribed period extend the said period by further period of 60 days.

In the instant case, though there is a delay of 89 days but actual delay is of 29 days after prescribed period of limitation for preferring an appeal and considering the reason given by the appellant.

I have carefully gone through the decisions of **the Bombay High Court in Trio Fab India Private Ltd. v/s. Regional Provident Fund Commissioner-II & The Manganga Sahakari Sakhar Karkhana Ltd. v/s. The Assistant Provident Fund Commissioner** relied on behalf of the opponent. In earlier decision the petitioner approached directly to the High Court without filing appeal u/s. 7-I of the said Act as the permissible period of filing appeal was over in which it has been appreciated that, machinery of this Court cannot be utilized enable in filing of time barred appeals u/s. 7-I of the Act. Similarly, in the later case it has been appreciated that, the Legislature has specifically provided that, the Appellate Tribunal can condone the delay provided period of maximum 60 days. In any way this provision shows that, Legislature specifically intended exclude the power conferred u/s. 5 of the limitation Act to condone the delay or



to extend the period of limitation beyond the period of 60 days. There cannot be any dispute about the observations made by the Hon'ble Lordship of the Bombay High Court however in the instant case, the appeal has been filed within extended period of 60 days therefore I do not think that, these decisions are anyway helpful for the opponent to say that, the appeal filed by the applicant is time barred.

I have observed earlier that, the reason given on behalf of the applicant certainly seems to be bonafide. Not only this but, the delay not seems to be deliberate and intentional and the period of 29 days is within further extended period of 60 days therefore, the applicant is entitled for condonation of delay in filing an appeal.

In the result, The application for condonation of delay is allowed. The delay in filing the appeal is condoned. The case to proceed further.

Date: 26-08-2024



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