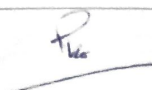


ORDER SHEET
CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR(MP)

CASE NO. CGIT/LC/EPFA/45/2022
Purandar Promoter & Developer Private Ltd, Bilaspur Vs. Union of India &
Others

Date of order of proceeding	Order or proceeding with signature of Presiding Officer	Signature of parties or pleaders where necessary
13-9-2022	<p>Taken up.</p> <p>Shri Aakash Choudhary learned counsel for the Appellant.</p> <p>Shri J.K.Pillai, learned counsel for the respondent.</p> <p>Perused the report of the Registry. Order under appeal is of 14-6-2022 and the appeal is filed on 7-9-2022. Learned counsel for the Appellant has pressed his application for condonation of delay which has been opposed by learned counsel for the Respondent by filing written objection and counter and affidavit. Grounds appears sufficient, hence application is allowed and delay is condoned.</p> <p>Learned counsel for the appellant further pressed application under Section 7(o) of the Act seeking waiver from pre-deposit under Section 7(O).</p> <p>The Respondent side has preferred written object and has opposed the prayer.</p> <p>The main argument of learned counsel for the appellant in attacking the impugned order is that the inspection</p>	



report of Enforcement Officer on the basis of which the assessment has been done has been wrongly relied by the Respondent Authority because it does not contain signature and other details of so called employees in the column mentioned in the format. He has also attacked on the merits of the impugned order. The arguments of learned counsel for the Respondent is that these are matters to be seen at the time of hearing of appeal on merits and waiver has been opposed.

On considering the record in the light of the rival arguments, the appellant appears to have established a prima facie case in his favour . Learned counsel for the appellant has relied on the Single Bench order of Hon'ble High court of M.P. at Jabalpur passed on 26-8-2022 in W.P.No.18915/2022 wherein Hon. Court has made the following observation :-

“Shri Arjaria reading provisions contained in Section 7-O of the Employees Provident Fund and Miscellaneous Provisions Act,1952 submits that there is a provision that no appeal shall be entertained by a Tribunal unless a person filing an appeal as deposited it 75% of the amount due form him as determined by an Officer referred to in Section 7-A and , therefore, there cannot be any waiver.

However, there is proviso below Section 7-O which authorizes the Tribunal for reasons to be recorded in writing, waive or reduce the amount to be deposited under this Section.

It appears that Tribunal has already reduced the amount from 75% to 40% but when a discretion is wasted in the Tribunal to waive or reduce the amount for the reasons recorded in writing than the form of depositing can also be suitably be

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modified so to meet the ends of justice.

In view of such facts there is an ongoing concerned and issue is yet to be decided conclusively by the Appellate Tribunal as to whether the employer is required to incur that liability or not, and specially when Shri Akash Choudhary undertakes that in case they loses appeal they shall deposit entire amount of dues so assist by the Authority and fixed by the Tribunal in appeal within 30 days from the decision in appeal, the impugned order is suitably modified to the extend that appellant/petitioner shall furnish adequate bank guarantee which shall be valid for the period of appeal and and period of three months thereafter."

Hon'ble the High Court has accordingly modified the order of this Tribunal in that case into depositing bank guarantee by appellant. Learned counsel for the Appellant has prayed that since the amount is huge and the Appellant is ready to undertake that in case it loses the appeal it shall deposit the entire amount under assessment with the Respondent Authority within 30 days from the date of decision of appeal in appeal . Hence in the light of the aforesaid order of Hon'ble High Court, the appellant is directed to file an under taking on affidavit of its authorized signatory that in case it loses the appeal , the amount under appeal shall be deposited within 30 days from the date of appeal and to file bank guarantee with respect of amount under Appeal which shall be valid for the period of appeal and 30 days thereafter, on the condition of compliance of these twin conditions, the appeal is entertained for hearing. Application under Section 7(O) stands disposed accordingly.



Recovery of any amount under the order impugned shall remain stayed till disposal of appeal, subject to the conditions aforesaid.

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

List the case on 30-11-2022



PRESIDING OFFICER