

**BEFORE HON'BLE MR. JUSTICE (RETD.) VIKAS KUNVAR SRIVASTAV,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.207
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-1/45/2022

M/s.EXL Services.com (India) Pvt. Ltd. Appellant
Through Sh. AjeetWarrier, AngadKochhar& Akbar Hussain, Ld. Counsel for the
Appellant

Vs.

APFC, Delhi (C) Respondent
Through Sh. B.B Pradhan, Ld. Counsel for the Respondent

ORDER DATED :- 28/09/2022

The present appeal is preferred u/s 7 I of the EPF & MP Act, 1952 against determination of amount due u/s 7 A of the Act. Perusal of the record shows that the impugned order was passed by the Respondent Authority on 30.06.2022. Aggrieved by this order the Appellant filed the present appeal on 22.09.2022 through official email and hard copy of the same was filed with the registry on 23.09.2022.

MISC.APPLICATION UNDER RULE 7 (2) OF THE EMPLOYEES' PROVIDENT FUND APPELLATE TRIBUNAL (PROCEDURE) RULES, 1997, SEEKING CONDONATION OF DELAY IN FILING THE ACCOMPANYING APPEAL;-

Appeal is filed on 22.09.2022 as such beyond the period of limitation of 60 days prescribed under rule 7(2) and thereafter expiry of 24 more days from the said period. This is why an application under the proviso appended to rule 7 (2) for condonation of delay is also moved.

Before admission of the appeal the application for condonation of delay is to be heard and decided. Sh. B.B Pradhan Ld. counsel appearing for the Respondent has preferred an objection against the delay condonation petition.

The Ld. Counsel for the Appellant has described several grounds in para 3 sub para A to E of his application alleging that after passing of the impugned order, the appellant was instructed by his counsel to collect the necessary papers for filing the appeal against the impugned order, which took a considerably long time by reason of "work from

home” continuing in the office of the appellant by the order of Government of India, Ministry of Commerce and Industry dated 27.05.2022. Anyhow the appeal was preferred serving notice of the same upon the Respondent but by reason of the aforesaid obstructions, the same could not be filed within 60 days and delay of 24 days occurred.

The Id. Counsel present on behalf of the Respondent submits that no sufficient cause is satisfactorily explained behind causing of the delay in filing the appeal within the prescribed 60 days. Therefore, application for condonation of delay needs to be rejected. Moreover, he emphasized on his arguments as to the non-applicability of Section 5 of the Limitation Act.

This is admitted that present appeal is filed within 120 days which is the extended period of limitation after the prescribed period of limitation under rule 7(2).

If there is a sufficient cause that the appellant was prevented from preferring the appeal within the extended period of limitation of further 60 days in proviso to rule 7(2). The aforesaid proviso for condonation of delay, therefore, enables the appellant who was facing genuine difficulties in filing the appeal within the first 60 days of limitation under rule 7(2). The ends of justice requires that a litigant cannot be barred from availing the relief prescribed under the law within certain period of limitation. The order of RPFC is dated 30.06.2022 and the appeal by the appellant against the said order was filed before this Tribunal on 22.09.2022. Considering that the appeal was filed by the Appellant within overall period of 120 days, the appeal in the ends of justice should be admitted condoning the delay of 24 days beyond 60 days from the date of order. Delay in filing the appeal is, therefore, condoned.

Further, the appeal shall be admitted subjected to deposit of 25% by the Appellant within 3 weeks of the assessed amount by way of FDR in favour of Registrar CGIT initially for a period of one year having auto renewal mode.

The Respondent Authority is also directed to deposit the recovered amount of Rs.3,52,44,983-/ by way of FDR in favour of Registrar CGIT initially for a period of one year having auto renewal mode within 3 weeks. List the matter on 19.10.2022 for reporting compliance by both the parties.

Presiding Officer