

**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR
COURT, No. 2 DELHI**

D-2/44/2024

M/s JPM Automobiles Ltd. vs. APFC/RPFC Gurugram West.

Present: Sh. S.K. Khanna, Ld. Counsel for the Appellant.
Sh. Narender Kumar, Ld. Counsel & Sh. Pradeep Batra, A/R
for Respondent.

Order Dated-30.04.2025

Order:- Oral

1. This order shall dispose of an application passed by the appellant whereby he seeks exemption from pre deposit of the amount reason being the impugned order dated 13.06.2024 is not sustainable. He submitted that the respondent has assessed the dues without identification of beneficiaries which is in derogation of the settled law. Respondent assessed the dues on assumption that the basic wages is 25% of the amount of Rs.5,26,04,000/- reflected in the annual accounts of the applicant for the repairs and maintenance of plant and machinery without identifying the beneficiaries. Even the respondent has assessed the amount in respect of the excluded employees within the meaning of Para 2(f) (ii) of the EPF Scheme.
2. Respondent has passed the impugned order relying upon the report dated 14.05.2024 of the Enforcement Officer the contents of which are not proved by the EO either by filing on an affidavit or by leading evidence. Hence, he submits that appellant be exempted from depositing the pre deposit amount and waive the condition.
3. Per contra. Respondent has opposed the prayer. He had extracted the language of 7O of the Act. Thereafter, he relied upon the various case laws namely **M/s. Muthootpapachan Vs. Employees Provident Fund Organisation, G4S facility services India Pvt Vs. Regional Provident Fund Commissioner-I** stating that the EPF Act is a social welfare legislation for the benefit of labour class. Financial hardship cannot be criterion for giving any concession to the employer for non-compliance of any provision of the Act. Appellant in respect of the three employees namely **Sh. Subhash Sharma, Sh. Ram Dutt Katiyar and Sh. Anil Kumar Sharma** who were hired as consultant after their retirement contested the EPF

dues quantified by then AEO but no records to support the claim were produced. The DR submitted that these employees were being paid on a monthly basis and had joined the establishment on the next date of retirement and were existing members under the Act. He submitted that appellant be directed to deposit 75% of the assessed amount.

4. I have heard the arguments and gone through the law as well as record produced by both the parties. Before proceeding further provision of Section 7O of the Act is reproduced here under for ready reference:-

7-O. Deposit of amount due, on filing appeal. —No appeal by the employer shall be entertained by a Tribunal unless he has deposited with it seventy-five per cent. of the amount due from him as determined by an officer referred to in section 7A:

Provided that the Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this section

5. The above said provision has given wide discretion to this tribunal to reduce or waive the pre deposit amount considering the circumstance of the case to case. Though in the first proviso it was made mandatory to deposit the amount, however, on the subsequent paragraph/ proviso, the wide discretion has been provided.
6. In the current matter enquiry was held for three years. RPFC has assessed the dues in four tables. Table A consists of the dues in relation to the three employees from June, 2016 to August, 2020 which were calculated to the tune of Rs.3,79,853/-. Table B shows the dues related to the excluded employees who were found to be eligible for becoming the members of EPF. An amount of Rs.13,83,874/- was assessed in respect of eight such employees. Table C is related to the dues assessed to the tune of Rs.7,33,518/- in relation to other allowances paid for the above said period. Table D is in regard to the dues related to the Labour engaged for repair & Maintenance works amounting to Rs.33,16,304/-.
7. Although, the merit of the appeal has not been considered at the time of deposing the application u/s 7O of the Act but due regard shall be given to the circumstance therein, if it appears that the order reflects over exercise by the respondent herein. So far so the dues related to the Labour engaged for repair & maintenance works amounting to

Rs.33,16,304/- is concerned, no identification of the worker have been carried out therefore, there is some weightage in the argument of the counsel of the appellant that it is miscalculated. Same is in regard to the excluded employees' contribution.

8. Considering the overall circumstances, no case of total waiver is made out. However, the appellant is directed to deposit an amount of Rs.10,00,000/- within six weeks from the date of this order by way of FDR favoring 'Registrar CGIT' initially for a period of one year having auto renewal mode thereafter. Put up on 09.07.2025 for reporting compliance by the appellant. In the meanwhile, interim order, to continue till next date of hearing.

Atul Kumar Garg
(Presiding Officer)