

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, MUMBAI

PRESENT

JUSTICE R.N. KAKKAR

CGIT-1/EPFA/30/2021

M/s. Jugheads Hotels & Restaurant Pvt. Ltd.,

V/s.

APFC, Kandivali

Present:-

For Appellant : Mr. H.L.Chheda, (A.R)

For Respondent : Mr. Sunil Surana (Adv.)

Date: 24/06/2021

ORDER

The present appeal is filed by the Appellant under Section 7-I of the EPF & MP Act, 1952 (hereinafter referred to as the Act) against the order dated 28/02/2020 passed by the Regional Provident Fund Commissioner, the Respondent under section 7-A of the Act. Along with the appeal memo, the Appellant has filled applications for waiver of deposit and for stay.

The impugned order was passed by the Respondent on 28/02/2020 and the Appeal was filed on 12/03/2021. The Appeal is filed within period of limitation.

Today, matter was kept for deciding the application for waiver/reduction of the amount to be deposited since along with appeal, the Appellant has filed application for waiver of deposit u/s 7-O of the Act.

Reply/ say on the waiver application filed by the respondent.

Heard both parties on the miscellaneous application u/s 7-O of the Act.

The Appellant submitted that the impugned order was passed on basis of the EO deposition dated 28/02/2020 and said deposition was not provided to the Appellant before passing an assessment order and no opportunity was granted for filing the say from the Appellant. The Appellant further argued that the impugned order was passed hurriedly under the instructions of their higher authority. He further argued that the Appellant had submitted the salary records and documents with regards to wages of employees, but instead of it the assessment order was passed on the basis of the balance sheets. It is further contended that the approximately Rs. 2 lacs were deposited with EPF authorities in this case.



The Appellant further contended that the reply of this waiver application and affidavit in support of it has been filed by the same authority that has passed the impugned order. Lastly, it was contended that the Application u/s 7-B for review was filed on 08/03/2021 but the status of the same is not known to Appellant till date. So, he prayed for waiver/ reduction of the pre-deposit of 75 % as required u/s 7-O of the Act.

In reply to the above arguments, the learned advocate for the Respondent stated that the inquiry proceedings started in the year 2016 and about 30 dates has been afforded during the period of inquiry. It was further contended that all the grounds advanced by the Appellant has been properly considered and decision thereon is passed by the inquiry officer. It is next contended that the Appellant has not stated any justifiable reasons in his waiver application for the waiver of the pre-deposit, onus lies on the Appellant to produce the positive materials in support of the relief mentioned in the waiver application.

Considering the above submissions made by both the parties, facts and circumstances of the case, it is clear that the impugned order was passed on 28/02/2020 and total amount assessed u/s 7-A is Rs.41,18,255/- which covers the period 01/2012 to 09/2016. On hearing both the parties and considering the submissions raised by the Appellant, the prima facie case for reduction of the pre-deposit amount from 75% to 30% is made out. Also, considering the financial problems due to COVID-19 pandemic, the balance of convenience is in the favour of the appellant at this point of time.

In view of the above reasons, I hereby direct that the 30% of the assessed amount be deposited with the Respondent within a period of six weeks to entertain this Appeal as provided u/s 7-O of the EPF & MP Act, 1952.

This miscellaneous application no. 30(W) finally disposed of accordingly.



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TRUE COPY

Nabawaj
Secretary to the Court
Central Government Industrial
Tribunal-cum-Labour Court No. I
Mumbai

Sd/-

(JUSTICE RAVINDRA NATH KAKKAR)
PRESIDING OFFICER