

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM NO 208, ROUSE  
AVENUE DISTRICT COURT COMPLEX, NEW DELHI-110002.**

M/s. Leighton India Contractors Private Limited ..... Appellant

Through:- Ms. Ushan Nandini V., Ld. Counsel for the Appellant.

Vs.

CBT Through RPF, Delhi (West) ..... Respondent

Through:- Shri Puneet Garg, Ld. Counsel for the Respondent.

**Order dated 18.11.2020**

This order deals with the prayer made by the appellant in the appeal for an interim order of stay on execution of the impugned order pending disposal of the appeal. No formal objection though not filed by the respondent, the learned counsel representing him participated in the hearing.

Perusal of the impugned order shows that in exercise of the power vested u/s 14B of the Act, the RPF Delhi has passed the order imposing damage of Rs5,69,02,350-. Challenging the same as illegal, the present appeal has been filed. The contention raised in the appeal is that appellant is a multinational company operating in India and engaged in construction business. The establishment has been covered under The Act since October, 2008. For effective functioning the company hires the service of experts who are mostly Australian citizens. To those international workers, initially the appellant was not extending the benefits of EPF and allied schemes as the government of Australia was pursuing with the Govt. of India for signing the social security agreement. But the matter was delayed for protracted discussion and the appellant, as an abundant caution, started implementing the provident fund scheme for its international workers irrespective of their position in the company and salary drawn with effect from September 2011. Not only that the appellant also deposited the arrears calculated and interest amount of Rs 2,51,18,620/- through cheques on 01.03.2012 and 21.3.2012 respectively. During the pendency of discussion between the two countries with regard to SSA, the commissioner served notice on the appellant for 7A inquiry which was followed by another notice for inquiry u/s 14B and 7Q of The Act. The appellant appeared before the commissioner and apprised about the ongoing 7A inquiry and the stand taken therein. Request was made to withhold the proceeding of 14B till decision is taken in the 7A proceeding as the appellant establishment has no evil intention behind the delayed remittance of the dues. The request of the appellant was turned down, and the impugned order was passed without proper application of mind by the commissioner. She also submitted that the appellant has a good case to argue in the appeal and the amount assessed is big. Unless the order stayed pending disposal of the appeal, the relief sought would become infructuous.

The learned counsel for the respondent while supporting the impugned order argued that the provision aims at safeguarding the interest of the employees in the hands of the mighty employer. The order of stay on the impugned order will negate the very purpose of the legislation.

There is no dispute on facts that remittance has been made after considerable delay. But the appellant has offered an explanation of its bonafides in doing so. On hearing the argument advanced by the counsel for both the parties decision is to be taken on the interim relief of stay as prayed by the appellant. The factors which are required to be considered at this stage are the period of default and the amount of damage levied. At the same time as decided by the Hon'ble High Court of Bombay in the case of **Moriroku Ut India Pvt Ltd vs Union Of India reported in 2005SCCpage1** and in the case of **Escorts Limited and another vs Union Of India reported in 43(1991)DLT 207** the courts and tribunals are obliged to adhere to the question of undue hardship when such a plea is raised before it.

In this case the period of default as seen from the impugned order is from 10/2008 to 03/2016, and the amount of damage assessed is equally big. Thus on hearing the argument advanced it is felt proper and desirable that pending disposal of the appeal, the said amount be protected from being recovered from the appellant. Furthermore in the case of **Mulchand Yadav and Another vs Raja Buland Sugar Company and another reported in(1982) 3 SCC 484** the Hon'ble Supreme Court have held that the judicial approach requires that during the pendency of the appeal the impugned order having serious civil consequence must be suspended.

Hence, in this case it is directed that there should be an interim stay on the execution of the impugned order pending disposal of the appeal. But the said interim order cannot be unconditional. The appellant is directed to deposit Rs 18,00,000/- which is a little more than 30% of the assessed amount by way of challan with the Respondent within eight weeks from the date of this order as a precondition for stay pending disposal of the appeal. Put up after eight weeks i.e. on 18-January-2021 for compliance of the direction. Interim stay granted earlier shall continue till then.

Sd/-  
(Presiding Officer)