

**BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, ROUSE AVENUE,
DISTRICT COURT COMPLEX, DELHI.**

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

ATA No. D-1/56/2019

M/s Rajbhra Medicare Pvt. Ltd.

Appellant

VS.

APFC, Delhi (South)

Respondent

ORDER DATED:- 27.07.2021

Present:- Shri S.S. Pandey, Ld. Counsel for the Appellant.
Shri Rajesh Kumar, Ld. Counsel for the Respondent.

This order deals with the petition dated 15/7/21 filed by the petitioner praying restoration of the appeal registered as ATA No D-1/56/2019, which has been dismissed by order dated 18/3/21 for non compliance of the earlier direction of this Tribunal. Copy of the petition was served on the Respondent who appeared through it's counsel and participated in the hearing held by VC on 20/7/21.

It is submitted by the petitioner that the appeal registered as ATA No D-1/56/2019 was filed by the establishment challenging the order dated 29.10.2019 passed u/s 7A of the EPF & M P Act. The tribunal heard both the parties on admission of the appeal and the application filed by the appellant u/s 7O of the Act praying waiver of the condition of pre deposit of 75% of the assessed amount for the reasons canvassed before the Tribunal. The Tribunal being convinced on the grounds taken in the petition, by it's order dated 21.02.2020 directed the appellant to deposit 30% of the assessed amount within 6 weeks from the date of the order, as a pre condition for admission of the appeal and interim stay on the execution of the impugned order. The said 30% of the assessed amount being a huge sum of money, the appellant was making arrangement for the same that the Covid-19 pandemic broke out and by the order of the Hon'ble S C and H C, the courts and Tribunals went on adjourning the case en block and the appellant could not know about the status of his appeal. When a police

personnel visited his premises in connection of the recovery of the assessed amount, the appellant contacted his lawyer and came to know about the order dismissing the appeal on 18/3/21.

In the petition for restoration it has been stated that the non compliance of the deposit direction of the Tribunal was never intentional but for the dead lock created on account of the outbreak of Covid -19 and the preventive shut down of all commercial activities. It has also been pleaded that the Hon'ble S C by passing orders in the suomoto WPC No. 3/ 20 have extended the period of limitation in all the cases, appeals and application until further order. By necessary implication that benefit is also available to the appellant. The appeal involves material and substantive rights of the appellant. If the same would not be restored to file, and chance is not given to challenge the impugned order, serious prejudice shall be caused.

The learned counsel for the respondent while opposing the submission that the period of limitation extended by the Hon'ble S C is in respect of the statutory time limit prescribed for filing of cases, appeals and petitions, but not with regard to all the actions to be taken by the parties in a proceeding. He further pointed out that the appellant seriously lacks diligence in conduct of the matter which is evident from the order sheets of the record. He thereby urged for rejection of the petition filed for restoration of the dismissed appeal.

In view of the submissions made I perused the order sheet maintained chronologically. It reveals that the appeal was filed after expiry of the period of limitation as the Hon'ble High Court had condoned the inordinate delay. But the appeal was dismissed for default at the stage of admission and again restored by this Tribunal on 11/12/19. Thereafter the matter was heard on admission and order was passed on 21/2/20. For non compliance of the direction it was again dismissed by order dated 18/3/21.

No doubt the appellant has shown lack of diligence in complying the direction given in the order dated 21/2/20. The plea of the appellant with regard to extension of the period of limitation as has been allowed by the Hon'ble S C is not available to him as there is no statutory period of limitation prescribed under the Act or Rule for compliance of the pre deposit direction. However considering the fact that all activities has come to a halt for the out break of Covid-19, it is felt that the appellant had failed to comply the direction for a condition beyond it's control and another opportunity should be allowed to it to contest the impugned order.

Hence the petition for restoration is allowed subject to the condition that the appellant shall deposit Rs. 5000/- in the DSLA within 15 days and also comply the direction given in the order dated 21/2/20 positively within the said 15 days from date of this order, failing which the petition for restoration shall stand dismissed without further reference and consequentially the appeal. Call on 16.08.2021 for compliance of the direction given in this order.

Presiding Officer