

**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-1/61/2019

M/s. North Delhi Municipal Corporation

Appellant

VS.

RPFC, Delhi (North)

Present:- Ms. Vasu Singh, Ld. Counsel for the Appellant.
Shri Rajesh Kumar, Ld. Counsel for the Respondent.

Order dated 18/01/2022

The Appeal filed by NDMC challenging the order dt 31/8/18, communicated on 6/9/18 passed u/s 7A and the order dt 31/12/18 passed u/s 7B by the RPFC has been challenged by the Respondent on it's maintainability. This order proposes to decide maintainability of the appeal for the purpose of admission.

Learned counsel for both the parties advanced argument in support of their respective stand. The Registry has pointed out about the delay in filing of the appeal as the same has been filed on the 120th day of the passing of the order u/ 7B of the Act.

On perusal of the pleadings of the appellant, documents filed and the office note of the Registry it appears that the order u/s7A of the EPF&MP Act was passed by the RPFC on 31.8.18 in five separate proceedings for the periods 8.1.11 to31.3.12, 1.4.2012 to 31.3.2013, 1.4.13 to 31.3.14, 1.4.14 to 31.3.15 and 1.4.15 to 31.5.15. A total amount of Rs92,46,08,919/- was assessed in those proceedings. The respondent had asked the appellant establishment to deposit the amount within a stipulated time. The direction was not complied. On the contrary the appellant requested the Respondent for extension of time, which was allowed. Despite that, when the appellant establishment did not deposit the assessed amount, recovery proceedings were initiated and accounts of the DDOs of the appellant were attached. Being aggrieved the appellant filed a review petition jointly in respect of all the five orders. The RPFC by order dated 31.12.18 rejected the said review petition as not maintainable as framed. Being aggrieved the appellant filed this appeal challenging the order dt 31.12.18of the RPFC on the review petition. This appeal is

in respect of the assessment of Rs 20,09,69,722/- u/s 7A. Later on, the appellant filed separate appeals in respect of other specific orders passed u/s 7A and 14B of the Act.

Notice being served the learned counsel Sh Rajesh Kumar appeared on behalf of the Respondent and participated in the hearing on the admission of the appeal and the petition filed u/s 7O of the Act.

The learned counsel for the appellant mainly focused her argument on the fact that the NDMC is basically funded by the Govt and at present reeling under acute Fund crunch and hardly managing to pay salary to its employees. The assessment made and recovered partly has forced the appellant in to a situation that salary can not be paid to the employees in the months to come she thereby submitted that the appeal be admitted waiving the condition of pre deposit provided u/s 7 O of the ACT.

The learned counsel for the respondent has challenged the maintainability of the appeal on the ground that the order passed by the RPFC u/s 7B is the order rejecting the petition as not maintainable. No order has been passed by the RPFC modifying the order under section 7A or refusing the grounds for modification. He also submitted that the appellant through out its pleading has not challenged the legality of the said order. The only stand taken is that for the financial hardship faced facility for deposit of the assessed amount in installments be allowed. That not being under the scope of review was rightly rejected. That order of rejection is not maintainable in view of the provision laid u/s 7B(5) and sec 7I(1) of the Act.

A plain reading of the provision of sec 7 I shows that the appeal is not maintainable if the order is passed rejecting the prayer for Review. The provision has also been laid u/s 7B(5) of the Act. On a conjoint reading of both the provisions it appears that the order passed by the RPFC rejecting the Review, which has been challenged in the captioned appeal is not appealable. Hence the appeal is held not maintainable and dismissed at this stage of admission. Consign the record as per Rule.

(Presiding Officer)