

ORDER SHEET

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL – Cum – LABOUR COURT,
JABALPUR (M.P.)

Date of Order of Proceeding	Order Or Proceeding with Signature of Presiding Officer	Remark
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Case No. CGIT/LC/EPFA/72/2024
M/S. Gupta Automobiles V/S APFC Chhindwara

15.10.2024

Matter taken up.

Mr. Uttam Maheshwari present for Appellant Establishment and Mr. Abhishek Arjariya is present for Respondent Authority.

Learned Counsel for Appellant Establishment presses his application dated 23.09.2024 filed with affidavit to condone the delay in filing the appeal. Learned Counsel for Respondent Authority has preferred written objection with affidavit.

I have heard learned Counsel for both the sides on application for condonation of delay and have gone through the record.

According to the report of Registry, order u/s. 7(A) was passed on 23.09.2024. Order on application of Appellant Establishment seeking review of the order passed by the Respondent Authority has been passed u/s. 7(B) of the Act on 01.08.2024. The appeal has been filed before this Tribunal on 23.09.2024.

It has been submitted by the learned Counsel for Appellant Establishment that they were not informed about the order passed u/s. 7(A) of the Act on 19.12.2023 through E-mail or Post or Telephonically. It was only when notice for recovery of the amount was received by them, they came to know about the said order when inquired from Respondent Authority. Hence, the

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	<p>limitation will run from the date of knowledge of the order, which was 21.05.2024, when they received copy of the order dated 19.12.2023, sent by Respondent Authority to them vide their communication dated 16.05.2024.</p> <p>Learned Counsel has relied on a Division Bench Judgment of Hon'ble Kerala High Court in <i>W.A. No. 189/2024 Dr. K.M. Navas Vs. RPFC, Kozhikode</i>, wherein it has been laid down that the limitation will run from the date of receipt of the order appealed against and not from the date on which the order was passed.</p> <p>On the other hand, learned Counsel for Respondent Authority has submitted that Rule 7(2) of the Employees Provident Fund Appellate Tribunal (Procedure) Rules, 1997 (in short 'Rules') provide period of limitation for filing appeal against orders u/s. 7(A) which is 60 days from the date of order, which can be extended to another 60 days on sufficient grounds. According to learned Counsel, since there is specific provision regarding limitation in the Rules, the general provisions of Limitation Act 1963 will not apply in the case in hand.</p> <p>Learned Counsel has referred to judgment of Division Bench of Hon'ble High Court of M.P. at Jabalpur in <i>W.A. No.-1089/2024</i> in the case of <i>Money Makers Research Pvt. Ltd. Vs. RPFC, Indore</i> in which an order of this Tribunal, holding the appeal barred by limitation on the ground that</p>	

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	<p>limitation will run from the date of order and not from the date of knowledge, affirmed by a Single Bench of the Hon'ble High Court of M.P. in <i>W.P. No. 5799/2024</i> was confirmed by dismissing the writ appeal.</p> <p>The facts of the case in hand, the two judgments of Division Bench, referred to by the learned Counsel for the parties are identical. It is to be kept in mind that this Tribunal is under subordination and superintendence of Hon'ble High Court of M.P. under Article 227 of the Constitution, the law laid down by Hon'ble High Court of M.P. will be binding and guiding.</p> <p>Learned Counsel for Appellant Establishment further submits that they preferred a review petition u/s. 7(B) of the Act, which was dismissed on 01.08.2024 after hearing, the order under review will merge with the main order u/s. 7(A) of the Act. Learned Counsel further submits that the appeal is within limitation from the date of order u/s. 7(B) and should be admitted for hearing. Countering this argument, learned Counsel for Respondent Authority submits that under Rule 79-A of the Employees Provident Fund Scheme 1952 any person aggrieved by an order laid u/s. 7(A)(1) of the Act and desires to obtain a review of such order may apply for review of the order to the Officer who pass such order provided that no such application for review will be entertain unless it is submitted within 45 days from the date of passing the order. Learned Counsel further</p>	

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	<p>submits that since the review petition was filed by the Appellant Establishment only on 09.07.2024, it was beyond the period of 45 days from the date of order u/s. 7(A), hence it was barred by limitation and thus the appeal itself will be barred by limitation.</p> <p>I am not inclined to accept this leg of argument of learned Counsel for Respondent Authority, reason being that the review order does not show that the review petition has been filed beyond limitation, rather merits of the order have been considered and the review petition has been dismissed on merit. When the review petition has been dismissed on merits, and not on the point of limitation, order u/s. 7(B) of the Act becomes appealable. Hence, since the orders u/s. 7(A) and 7(B) have merged, hence period of limitation for filing appeal shall run from the date of order u/s. 7(B) of the Act and then the appeal becomes within limitation.</p> <p>On the basis of the above discussion and findings, the appeal is held not barred by limitation. The application for condonation of delay stands disposed accordingly.</p> <p>Register the appeal.</p> <p>Learned Counsel for Appellant Establishment has also pressed his application for waiver of pre-deposit u/s. 7(O) of the Act and I.A. for stay of recovery filed with affidavit. The learned Counsel for Respondent Authority has filed written</p>	

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	<p>objection with affidavit.</p> <p>I have heard arguments of learned Counsel for both the sides on these applications also and on perusal of records in the light of rival arguments, I am of the considered view that the Appellant side has successfully established his <i>prima-facie</i> case in his favour. Hence, in the light of facts and circumstances of the case in hand, application u/s. 7(O) and I.A. may be allowed but on certain conditions.</p> <p>Hence, allowing partially the application u/s. 7(O), the pre-deposit amount is reduced to 40% of the amount under Appeal, to be deposited by the Appellant Establishment in favour of Registrar, CGIT, Delhi within 30 days from the date of this order and filing compliance report. Subject to compliance of this order, the recovery of amount under the Appeal shall remain stayed till disposal of appeal.</p> <p>Counter within 4 weeks.</p> <p>Rejoinder within 2 weeks thereafter.</p> <p>List on 17.01.2025 for final arguments.</p> <p style="text-align: right;">Presiding Officer</p>	