

**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM
LABOUR COURT, No. 2/EPFAT DELHI**

D-2/18/2025

M/s Ahrestey India Pvt. Ltd. vs. APFC/RPFC, Gurugram West.

Present: Sh. Vivek Kaushal, Ld. Counsel for the Appellant.

Sh. Chakradhar Panda, Ld. Counsel for the Respondent.

Order dated-22.05.2026

1. This order shall dispose of the two applications: one filed under section 7-O of the **EPF & MP Act, 1952 (hereinafter referred to as "the Act")**, and another filed **under section 21 of Tribunal (Procedure) Rules, 1997 read with 151 of the CPC** for grant of interim stay.
2. Record of the appeal shows that it has been filed against the impugned order passed on 13.01.2025 under section 14-B of the Act, whereby the Ld. Regional Provident Fund Commissioner assessed the damages for belated remittance of PF contributions to the tune of Rs. 23,90,487/- for the period 29.09.2018 to 26.10.2023.
3. The appellant is not required to file the application under section 7-O of the Act, whereby it is mandatory to the appellant to deposit 75% of the assessed amount before entertaining the appeal. This condition is in respect of the order passed under section 7-A of the Act not under section 14-B of the Act. Therefore, application filed under section 7-O for waiving of the condition of deposit stands disposed off, as such being filed unnecessarily.
4. Now, I take up the other application filed **under section 21 of Tribunal (Procedure) Rules, 1997 read with 151**, seeking stay of the operation of the impugned order passed under section 14-B of the

Act. Appellant has stated that he filed the **writ petition no. 16861 of 2021 before the Hon'ble High Court of Punjab & Haryana at Chandigarh**, challenging the coverage order passed by the EPF Tribunal on 18.02.2019, which was stayed vide order dated 01.09.2021 and the matter has been heard today. Delayed remittance occurred due to the lack of clarity regarding applicability of EPF Scheme to the Japanese expatriate employees (international workers); incomplete KYC documentation of certain employees from different parts of the country who could not provide requisite documents like Aadhaar or PAN cards. Hence, he submits that balance of convenience lies in his favour and the order be stayed.

5. Per contra, respondent has filed the reply of the application. Respondent has stated that each and every part of the instant application under reply are bundle of lies, concoction and misleading facts and the same is denied by the defendant, save and except the facts and contentions which were matter of record. Appellant has miserably failed to disclose any cause of action giving rise to the instant appeal; hence, the same is devoid of any merit and is liable to be dismissed. Appellant has allegedly tried its best to conceal the real fact from this Hon'ble Tribunal. He further submitted that it has been observed that the establishment is a regular defaulter in the payment of PF dues for the period 29.09.2018 to 26.10.2023 and has been depositing the dues belatedly having 3602 days of delay and around 75 such repeated occasions. Consequently, the appellant is liable to pay damages u/s 14B to be read with paragraph 32-A & 8-A of the Employees Provident Fund Scheme, 1952. Hence, he submitted that application filed by the appellant be dismissed and appellant be asked to pay the at least 75% of the amount before entertaining this appeal.

6. I have heard the argument at bar and gone through the record of this case. As per record, appellant, a covered establishment under the Employees Provident Fund and Miscellaneous Provisions Act,

1952. It is engaged in manufacturing Die-Casting automobile parts, which are supplied to giant automobile manufacturers i.e. Maruti Suzuki India Pvt. Ltd., Honda Cars India Ltd., Toyota India Engine Industry, Denso etc. The appellant states that in response to the show cause notice issued by the respondent on 30.10.2023 for alleged belated remittance PF contribution for the period 29.09.2018 to 26.10.2023, he submitted detail representations dated 17.02.2024 and 27.08.2024 explaining the circumstances leading to the delayed remittances, but, it has not been considered. The delayed payment in respect to the period 11/2008 to 2013 pertains to the Japanese expatriate employees (international workers), where clarity regarding applicability of EPF Scheme was awaited. Appellant has filed the writ petition no. 16861 of 2021 before the Hon'ble High Court of Punjab & Haryana at Chandigarh, challenging the coverage order passed by the EPF Tribunal in favour of the respondent dated 18.02.2019, which was stayed vide order dated 01.09.2021. Further delay was occurred due to incomplete KYC documentation of certain employees from different parts of the country who could not provide the requisite documents.

7. Moreover, he has relied upon the judgment passed in the **writ petition no. 18486/2012 titled as Stone Hill Education Foundation & Ors. vs. Union of India & Ors.** dated 25.04.2024, where the Hon'ble High Court of Karnataka declared paragraphs 83 & 43-A of the Employees' Provident Fund Scheme, 1952, as unconstitutional, arbitrary and violative of Article 14. Since the impugned order for damages is primarily based on the assessment of the PF contributions of international workers made under section 7-A of the Act by applying para 83 of the EPF Scheme, 1952, impugned order has completely untenable and unenforceable.

8. Notice of demand as per **Annexure-A** pertains to the period 11/2008 to 09/2022, where out of total fifty-three entries in the demand notice, forty-six entries pertain to the period from 01/2008 to

2013 of which the payments were paid in three occasions i.e. 25.10.2018, 26.10.2018 and 15.11.2018. The delay in remittance for this period ranged from 2501 days to 2506 days and the amount is very large, constituting more than 80% of damages for the above said period. It is also the matter of fact that an earlier assessment was made in respect of the period 06/2009 to 15.02.2017 for belated remittance of PF contributions, which were also paid in a single go i.e. on 31.07.2018.

9. Considering the fact that an earlier order passed by this Tribunal has been stayed by the High Court of Punjab & Haryana, and the fact that more than 80% of the damages in respect of delay in remittance of PF contribution pertain from 2008 to 2013 of which the deposits were made in 2018, impugned order passed by the respondent is hereby stayed without imposing any condition of deposit.

ATUL KUMAR GARG
(Presiding Officer)