

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

Appeal No. D-2/11/2025

M/s Nutech Jetting Equipments India Pvt. Ltd. vs. APFC/RPFC, Faridabad.

Present: Sh. J.R. Sharma & Sh. Bhupesh Sharma, Ld. Counsel for the
appellant.

Sh. B.B. Pradhan, Ld. Counsel & Sh. Nilesh Kumar, A/R for the
respondent.

Order dated- 20.05.2026

1. Appellant has preferred the present appeal, assailing the order dated 24.05.2025 passed by the Ld. Assistant Provident Fund Commissioner, Gurugram, **under section 14B & 7Q of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the Act")**, whereby the respondent has determined the damages to the tune of Rs. 17,49,236/- and interest to the tune of Rs.14,53,017/- respectively, for the belated payment of EPF & allied dues made during the period 10/2017 to 05/2023.

2. Appellant has assailed the said order on several grounds inter-alia that the Section 14 B of the Act deals with the power to **recover** damages but no power has been given by the Act to **levy** the penal damages. He has further stated that the respondent authority has not considered his request not to levy any penal damages for the Covid-19 pandemic lockdown period i.e. from March, 2020 to February, 2022; the respondent has not considered his submission that there was no willful delay or negligence in remittance of PF dues on part of the appellant establishment, since the payment has been belatedly received from the Indian Railways which is the principal employer.

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He has stated that the order dated 24.05.2025 passed by the respondent authority be set aside.

3. Per contra, respondent has filed a reply, opposing the prayer made in the appeal. He had first narrated the preliminary submissions citing the object of the **Employees' Provident Funds & Miscellaneous Provisions Act, 1952**, which meant for providing social security to employees working in any establishment engaging 20 or more persons on any day. Subsequently, he had narrated the facts that both employee and employer share of the provident fund and other contributions have to be deducted from the wages of the wage month and he is required to deposit the same by 15th of the following month. He further submitted that the appellant has admittedly committed the default in depositing the EPF dues without prompt compliance, as such the respondent has justly levied the penal damages. He has also mentioned in his reply the judgment of Hon'ble Supreme Court in the matter of *Horticulture Experiment Station, Gonikoppal, Coorg vs. Regional Provident Fund Organisation (RPFO)* [(2022) 4 SCC 516] held that any default or delay in the payment of EPF contribution by the employer under the Act is a *sine qua non* for imposition of levy of damages under Section 14 B of the Act. In all he submits that the appeal be dismissed. A rejoinder has also been filed by the appellant denying the averments made by the respondent in his reply..

4. I have heard the argument at bar and gone through the record as well as the impugned order passed by Ld. RPFC. Before proceeding further, provisions of section 14B and 7Q of the Act is required to be reproduced herein-

14B. Power to recover damages.—Where an employer makes default in the payment of any contribution to the Fund [, the [Pension] Fund or the Insurance Fund] or in the transfer of accumulations required to be transferred by him under sub-

section (2) of section 15 4[or sub-section (5) of section 17] or in the payment of any charges payable under any other provision of this Act or of [any Scheme or Insurance Scheme] or under any of the conditions specified under section 17, [the Central Provident Fund Commissioner or such other officer as may be authorised by the Central Government, by notification in the Official Gazette, in this behalf] may recover [from the employer by way of penalty such damages, not exceeding the amount of arrears, as may be specified in the Scheme:]

[Provided that before levying and recovering such damages, the employer shall be given a reasonable opportunity of being heard]:

[Provided further that the Central Board may reduce or waive the damages levied under this section in relation to an establishment which is a sick industrial company and in respect of which a scheme for rehabilitation has been sanctioned by the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies (Special Provisions) Act, 1985, subject to such terms and conditions as may be specified in the Scheme.]

7Q. Interest payable by the employer.—The employer shall be liable to pay simple interest at the rate of twelve per cent. per annum or at such higher rate as may be specified in the Scheme on any amount due from him under this Act from the date on which the amount has become so due till the date of its actual payment:

Provided that higher rate of interest specified in the Scheme shall not exceed the lending rate of interest charged by any scheduled bank.]

Rate of levy of damages is given in para 32 A of the Employees' Provident Funds Scheme, 1952 and subsequent para 8A of the Employees' Deposit Linked Insurance Scheme, 1976 and Para 5 of the Employees' Pension Scheme, 1995 which have empowered the CPFC or any such authorised officer to recover from the employer by way of penalty, damages at the rate given below:-

| <i>S.No.</i> | <i>Period Of default</i> | <i>Rate of damages (percentage of arrears per annum)</i> |
|--------------|---|--|
| <i>(1)</i> | <i>(2)</i> | <i>(3)</i> |
| <i>(a)</i> | <i>Less than 2 months</i> | <i>Five</i> |
| <i>(b)</i> | <i>Two months and above but less than four months</i> | <i>Ten</i> |
| <i>(c)</i> | <i>Four months and above but less than six months</i> | <i>Fifteen</i> |
| <i>(d)</i> | <i>Six months and above</i> | <i>Twenty five</i> |

5. During the course of arguments, the Ld. Counsel for the appellant limited his arguments only on point of damages and has not pressed his appeal on point of section 7Q of the Act. In the present case, the main crux of the argument of the appellant rest around the fact that the respondent has not been given any power to levy the damages and no officer as such has been authorized to levy the damages under the notification. He further emphasized that the respondent has not considered their representation where he has stated that delay in default of payment of EPF dues was due to Covid-19 pandemic and he has not been given the advantage as directed by the Head Office of the respondent department. For this he has also drawn the attention of this court towards the impugned order where it is mentioned that – ***“no damages is levied for the month of March 2020 in***

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terms of the Head Office circular no. C-1/Misc./2019-20/Vol II/Part/9 dated 15/04/2020.” But perusal of the record reveals that no such relaxation for the month of March 2020 has been given by the respondent. His further argument is that the benefit of grace period has not been given by the respondent to him which he is entitled.

The respondent’s argument rests around the fact that the Regional PF Commissioner has power to levy the damages and all the pleas of the appellant had been duly considered and the RPFC has rightly assessed damages on belated remittance of dues. The counsel for the respondent has not given any answers as to why the respondent has not given the relaxation for the month of March, 2020 while calculating the dues for the reason of spread of the Covid-19 period. Though, it has been reflected in the impugned order. Further, his argument is that the respondent is empowered to both levying and recovering the damages under section 14B of the Act. The respondent further submits that the Additional CPFC has withdrawn the said grace period by issuing the circular number ‘WSU/09(1)2013/settlement’ dated 08.01.2016. Therefore, the respondent is justified for not giving the said benefit.

6. So far so the arguments of the counsel for the appellant that the respondent has not been authorized under section 14B of the Act to levy the damages is concerned, that doesn’t hold any water. In the proviso attached to section 14B, it has been specifically mentioned that before levying and recovering such damages, the appellant shall be given a reasonable opportunity of being heard. If the legislature has any intention to empower the authorities as mentioned in the notification to recover the damages only, then, no question arises to give an opportunity of being heard to the appellant. Moreover, the word ‘levy’ itself has been mentioned in the proviso itself. Therefore, the arguments in this regard is bereft of any merit.

7. On further perusal of the notice issued by the respondent department, the payment had been deposited belatedly for wage month 03/2020 to 06/2021, which was peak time of covid-19, therefore, the department has to give the relaxation in respect of the damages for belated remittance of the PF dues. Damages have to be kept by the department. The purpose of the Act is the social welfare and give social security to the person drawing less than Rs. 15,000/- per month. During the Covid-19, the industry was not able to pay the wages of the employees, what to say of deposit of PF. The purpose of the Act is not to close the industries by burdening them with damages, but to boost the industries by not penalizing them with damages. Therefore, keeping in view of the above said fact, the delay in remittance of PF wages from 03/2020 to 06/2021 is hereby waived.

8. Third leg of arguments is that there is a delay of 2 to 5 days in depositing the dues on three or four occasions, i.e., for the wage months of 07/2020, 07/2020, 10/2020 and 11/2020, and the respondent has not given the concession of grace period. This Tribunal had taken the stand in the case titled '**M/s. Sterling Mobikes Pvt. Ltd. vs. APFC, Gurugram (W) (ATA no. D-2/41/2022)**' decided on 30.10.2025, that the Additional Central Provident Fund Commissioner has no authority to withdraw the concession/grace period given by the Government of India after approving the decision taken by the CBT held on 13.01.1964. However, because the above said period where the delay is two to four days in depositing the dues, and it falls within the Covid-19 period, for which, this Tribunal had already waived the damages, therefore, the argument in the present case holds only literary value.

ORDER

In view of the above discussion, the present appeal filed by the appellant is partly allowed. Appellant is required to deposit the damages

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portion of the notice except for the period of 03/2020 to 06/2021. Office is directed to send the copy of this order to both the parties through email. The record of this appeal is consigned to record room.

(Atul Kumar Garg)

Presiding Officer.