

ORDER SHEET

**CENTRAL GOVT.INDUSTRIAL TRIBUNAL CUM
LABOUR COURT, JABALPUR(MP)
CASE NO. CGIT/LC/EPFA/31/2023**

M/s Centre For Entrepreneurship development V/S RPFC, Bhopal

Date of order of proceeding	Order or proceeding with signature of Presiding Officer	Signature of parties or pleaders where necessary
29.02.2024	<p>The appellant establishment has filed a petition seeking review of order dated 03/01/2024. Affidavit has been filed in support and certified copy of order of Hon'ble High Court of M.P. passed in miscellaneous petition No. 325/2024 on 06/02/2024 has also been filed. The respondent authority has preferred written objection with Affidavit.</p> <p>I have heard arguments of Shri Rajesh Soni Learned Counsel for appellant establishment and Miss Saloni Shrivastava for respondent on this petition and I have gone through the record.</p> <p>Facts connected in brief are mainly that appeal No. 31/2023 was filed by the appellant against order of respondent dated 17/11/2023 passed under section 14(B) of the Employees Provident Fund and Miscellaneous Provisions Act 1952, hereinafter referred to by the word 'Act'. An application under section 7 (O) of the Act was also filed to direct the waiver of pre deposit of 75% of the amount the appellant, though did not file the separate application seeking stay of recovery of amount under appeal but made this prayer under column No. 10 of the memo appeal seeking stay of the impugned recovery order in compliance of the order of respondent which is under appeal.</p> <p>After hearing both the side the appeal was registered and recovery of the amount under appeal passed under section 14 (B) of the Act was stayed subject to the condition of deposit of 40% of the amount within 30 days from the date of the order and filing the compliance report this order was passed on 03/01/2024.</p> <p>The appellant approached Hon'ble High Court of M.P. against this order by way of miscellaneous petition No. 325/2024. This petition was disposed by Hon'ble High Court vide its order dated 06/02/2024, permitted the petitioner to withdraw the petition. Hon'ble High Court further issued a direction to this Tribunal that if a review</p>	

application is filed by the petitioner before this Tribunal the same shall be decided without being influenced by its earlier order dated 03/01/2024. It is in the light of this order, the appellant establishment has preferred this review petition.

Learned Counsel for appellant has referred to the judgment of the Hon'ble High Court of the Madras in the case of M/s Madhuranthagan agriculture produce co-operative Marketing society V/s RPFC Chennai in W.P. No. 22860/2023 and 22333/2023 decided vide order dated 03/08/2023 and has submitted that this is the recent judgement of Madras High Court in which it has been laid down that there can be no precondition of the deposit of any amount for an appeal under section 14-B of the Act. Hence, as submitted by the Learned Counsel, the order that at 03/01/2024 is bad in law and requires to be recalled.

On the other hand, Learned Counsel for respondent has submitted that the said Judgement of Hon'ble Madras High Court is distinguishable on facts and referring decision of Hon'ble High Court Delhi in the case of Ascot Hotels and Resorts V/s APFC 2018 SCC online Delhi 7464 has submitted that this Tribunal is well within its power to impose condition while granting interim protection against recovery Learned Counsel further submits that in money matters involving recovery of money, conditional protection against recovery is well permitted in law.

The perusal of the decision of Hon'ble Madras High Court reveals that in the referred case, the order directing the petitioner to deposit sum was as a condition pre deposit to stay recovery proceedings Hon'ble High Court has referred to the judgement of Hon'ble The Apex Court in this order and has stated that pre deposit is mandatorily required only under section 7-O of the Act.

In the Delhi Judgement referred to from the side of respondent, referring the Division Bench judgement of Delhi High Court in Para 10 of the judgement of the case referred it has been held that order under section 14-B is different from order under section 7-O and also that during the pendency of the appeal, the competent authority is not prohibited to effect the recovery of amount under section 14-B or interest until there is interim protection by Tribunal in this respect and this Tribunal is well within its power to grant interim protection against recovery on certain conditions which include part deposit of amount under appeal.

Now coming to the fact in hand in the light of rival arguments and cases referred to, though there is an

application under section 7-O of the Act filed by appellant seeking waiver of pre deposit was on record but it was ignored in the light of principle that in appeal against order under section 14-B, no such pre deposit is required and the appeal has been registered there after came the interim relief sought in column No. 10 of the memo of appeal which is regarding stay of recovery.

Since it was a money matter, this Tribunal exercised its jurisdiction in granting interim protection against recovery by way of putting condition of deposit of a part of the amount under appeal which is well within the power of this Tribunal. I am supported by the judgement of Hon'ble Delhi High Court as referred to and find the judgement of Hon'ble Madras High Court distinguishable on facts.

In the light of above discussion, the review petition is sans merit and is dismissed.

List on date **30/05/2024** fixed for arguments.



PRESIDING OFFICER