

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
DELHI; ROOM NO 208, ROUSE AVENUE DISTRICT COURT
COMPLEX, NEW DELHI-110002.**

Restoration Application in Appeal No. 184(16)2013

M/s. Dewan Chand & Co. Pvt. Ltd. Appellant
Through:- Sh. Hemant Sharma, Proxy Counsel & Shri H.P.S. Kang, Ld.
Counsel for the Appellant

Vs.

APFC Faridabad Respondent
Through:- Sh. B.B. Pradhan, Ld. Counsel for the Respondent

ORDER DATED 19.11.2020

This order deals with the application filed by praying restoration of the appeal dismissed for the default of the appellant by order dt14.12.2016, on the grounds stated therein. Separate petition has been filed praying condonation of delay. Copy of the petition being served on the Respondent, Mr. B.B. Pradhan the learned counsel representing the respondent filed written objection and participated in the hearing of the petition held on 11.02.2020, when the learned counsel for the appellant was found absent in spite of due notice given on the preceding date. Perused the record of the appeal, application filed for restoration, application for condonation of delay and the reply filed by the counsel for the Respondent.

The appeal was filed challenging the order dated 29.11.2012 u/s 7A of the EPF& MP Act, passed by the APFC Faridabad, assessing Rs.6,55,380/- payable by the appellant establishment. While admitting the appeal this Tribunal by order dt19.03.2013 had directed for deposit of 25% of the assessed amount as a pre-condition for admission of the appeal and interim stay on the execution of the impugned order. That order was complied by the appellant. After filing of reply by the Respondent, when the matter came up for hearing of the appeal on 14.12.2016, none appeared on behalf of the appellant as a result of which this Tribunal dismissed the appeal for default of the appellant.

Almost three years thereafter on 30th October 2019, the present application has been filed along with a delay condonation petition that the counsel looking after the matter left the office of the Sr. Counsel for which the appellant could not know about the order of dismissal until 24.10.2019, when the file was inspected. It has further been stated that when this Tribunal once formed opinion that the appellant has points to argue in the appeal and being satisfied about the contents admitted the appeal and passed an order of interim stay, should not have dismissed the appeal on the ground of default. Describing the order dt14.12.16 as illegal, prayer has been made for restoration of the appeal.

Learned counsel for the respondent describing the situation as lack of due diligence urged for rejection of the petition. He also submitted that the appellant is not interested to pursue the appeal which is evident from the fact that no action was taken for restoration for three long years and the present petition came to be filed when respondent department took action for recovery of the assessed amount.

Perusal of the order sheet does not reveal about filing or pendency of any other application as on 18.10.2016. More over on an earlier occasion i.e. on 10.05.2016, the appeal was dismissed for default of the appellant and it was restored to file by order dated 06.06.2016. After that several adjournments were allowed for hearing and lastly it was dismissed for default on 14.12.2016. The circumstances clearly indicates the lack of diligence on the part of the appellant in conduct of the appeal and further more the explanation for the default and delay mentioned in the petition do not sound convincing to the conscience and thus, not accepted. The petition for condonation of delay and restoration of appeal is found devoid of merit and rejected.


(Presiding Officer)