

**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.
APPEAL NO. D-1/82/2019**

M/s. Seven Seas Hospitality

Appellant

Through:- Shri Manish Malhotra, Ld. Counsel for the Appellant

Vs.

RPFC, Delhi(North)

Respondent

Through:- Shri J.K. Sinha, Ld. Counsel for the Respondent

ORDER DATED 20.11.2020

This order relates to admission of the appeal and disposal of the application filed by the appellant u/s 7O of the EPF and MP Act praying complete waiver of the pre-deposit amount as provided u/s 7O for admission of the appeal.

Copy of the appeal memo and the application u/s 7O being served on the Ld. Counsel for the respondent he filed a written objection to the petition and also participated in the hearing.

The contention of the appellant is that it is an established Company engaged in the business of Hospitality services. It has been covered under the EPF Act and Scheme since 01/09/2006 and duly complying with the provisions of the act for its employees. On 01.03.2009, the EPFO by issuing a notice initiated a proceeding u/s 7A of the Act against the appellant but in fact the notice was not served on the appellant. The appellant came to know about the same in the last week of April 2019 on receipt of telephone call from the department. The establishment participated in the inquiry and placed all the materials or record. But the commissioner without appreciating the stand taken by the appellant and the materials produced, by order dated 12.06.2019, passed the impugned order of assessment holding that the appellant has defaulted in deposit of the PF dues of its employees for the period 05/2017 to 03/2018 amounting to Rs. 83,57,847/-. This order was received by the appellant on 14.06.2019 wherein he was asked to make deposit of the assessed amount within 15 days from the date of the receipt of the order failing which recovery action shall be initiated.

Being aggrieved the present appeal has been filed. In the appeal and in the application filed u/s 7O of the Act the appellant has stated that the inquiry was initiated as seen from the order on the basis of the report of the EO only. It has also been alleged that the inquiry was held in gross violation of the department circular which provides that before initiating inquiry all the documents relating to the calculation should be made available to the establishment. It has also been stated that the commissioner passed the order assessing a huge amount without identifying the beneficiaries which is against the judgment passed by the Hon'ble High Court of Delhi in the case of Delhi Iron and Steel stockists vs. RPFC wherein the Hon'ble Court have clearly stated that the commissioner is duty bound to tell the companies the basis of his demand and how many employees has he found as a fact in the employment of the companies and how much amount is payable to the individual employees. It has also been held that a liability cannot be saddled upon

an establishment in the name of compliance or enforcement of law because no collection can be made by the PF authorities for the faceless, nameless, or non identifiable persons. He thereby submitted that the appellant has a strong prima facie case to argue and the appeal be admitted waiving the condition of pre deposit failing which serious prejudice shall be caused to the appellant.

In his reply the Ld. Counsel for the respondent submitted that all the points pleaded can be taken into consideration at the time of merit hearing of the appeal.

He also argued that the condition laid u/s 70 of the Act is mandatory in nature and the appellant has not shown any convincing ground for waiver or reduction of the same. He thus, impressed for a direction to the appellant for deposit of 75% of the assessed amount as a pre condition for admission of the appeal.

On behalf of the appellant reliance has been placed on several judgments of the Hon'ble High Court of Delhi including the judgments of Delhi Iron and Steel referred supra and Inderson Motors Pvt. Ltd. vs. RPFC-II to support the stand for waiver of the pre deposit.

On hearing the submissions advanced by the counsel for both the parties and taking into account the stand and objection taken by them it is directed that the appellant shall make deposit of Rs.16,70,000/- which is little less than 20% of the assessed amount within 8 weeks from the date of receipt of the order by way of FDR initially for a period of one year having auto renewal mode favouring 'Registrar CGIT'. Call on 18-January-2021 for compliance of the direction. If the direction is complied the appeal shall be admitted and there shall be stay on execution of the impugned order till disposal of the appeal failing which the appeal shall stand dismissed without further reference.

Sd/-
Presiding Officer