

**BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, ROUSE  
AVENUE, DISTRICT COURT COMPLEX, DELHI.**

Present:

Smt. Pranita Mohanty,  
Presiding Officer, C.G.I.T.-Cum-Labour  
Court-II, New Delhi.

**ATA No. D-1/21/2021**

M/s. Unitech Limited

Appellant

VS.

RPFC, Delhi (South)

Respondent

**ORDER DATED:- 15.11.2021**

Present:- Sh.S.P Arora & Sh. Rajiv Arora, Ld. Counsel for the Appellant.  
Shri, Naresh Gupta, Ld. Counsel for the Respondent.

This order deals with the application dated 17/3/21 filed by the Respondent seeking information on the compliance of the direction given to the appellant by order dated 14/11/2019. Copy of the petition was served on the appellant, but no written reply was filed. The petition was taken up for hearing on 25/3/21 when both parties to the proceeding advanced their argument.

Perusal of the record shows that by order dated 14/11/2019 this Tribunal while considering admission of the appeal and the petition filed u/s 7O of the Act had directed the appellant to deposit Rs. 2,74,12,127/- which is 30% of the assessed amount within 60 days from the date of the order as a pre condition for admission of the appeal in compliance of the mandatory provision laid down in sec 7 O of the Act. Instead of complying the direction the appellant filed a petition praying that for the Moratorium granted by the Hon'ble SC in respect of all the proceedings pending against the appellant establishment, this Tribunal should not insist on the condition of pre deposit as per the order dated 14.11.19. After hearing the argument of both the parties an order was passed on 17.3.20 allowing one month time to the appellant from the date of that order for compliance of the direction given in the order dated 14.11.19.

Since the appellant was directed to deposit the amount with the Tribunal in form of Bank Draft, the respondent has come up with the present petition to know the status of the compliance.

Registry informed about non compliance of the direction given in the order dated 14.11.19 and 17.3.20. During hearing of the petition, no additional ground except the grounds taken during the hearing of the 7O petition was canvassed. Thus it appears that the appellant has failed to comply the direction

given in the orders dated 14.11.19 and dated 17.3.20 toward the mandatory provisions of sec 7O of the Act, which is a condition precedent for admission of the appeal.

Resultantly, the appeal stands dismissed for non compliance of the direction in terms of the mandatory provision of sec 7O of the Act. Consign the record as per Rules.

Presiding Officer

Later,

Soon after the pronouncement of the preceding order dismissing the appeal for non compliance of the direction, the Ld. Counsel for the appellant submitted that on last Saturday (which was a holiday) he has submitted certain documents by email to this tribunal which has a decisive impact on the order of the tribunal. Those documents since have not been considered, he requested for consideration of the same and modification of the order passed today. He made this submission orally without filing any objection to which the Ld. Counsel for the respondent took serious objection. This tribunal is of the view that the appellant is not required to file a petition in this regard since he is only requesting for perusal and consideration of some documents sent through email.

The documents filed by the Ld. Counsel include the order dated 31.07.2020 passed by the Hon'ble Supreme Court in Civil Appeal No. 10856 of 2016 and the list of the employees in whose favour the EPF dues have been released on Pro rata basis as shown in the annexure-H (a) of the order. He thereby submitted that out of a total PF Liability of Rs. 14,84,34,601/- an amount of Rs. 4,71,15,780/- has been released by the Hon'ble Supreme Court and directly deposited in the account of the ex-employees of the appellant/establishment. This tribunal by its order had directed deposit of 30% of the assessed amount which is equal to 2,74,12,127/-. The amount deposited in the account of the ex-employees is much more than the amount directed by this tribunal for deposit towards 7O compliance and the tribunal should taken note of this. Hence, it may be treated that the direction given stands complied and the order dismissing the appeal for non compliance is unjustified.

The Ld. Counsel for the respondent submitted that there is no evidence at this stage to hold that the amount so deposited is in respect of the beneficiaries of the 7O proceeding challenged in the appeal or in respect of the 7A proceeding challenged in this appeal.

Having heard the submissions from the counsel for both the parties it is held that the order dated 31.07.2020 of the Hon'ble Supreme Court filed on last Saturday which was a

holiday, was never brought to the notice of the tribunal on any date prior to the passing of the order today. Moreover, the deposit of Rs. 4,71,15,780/- in the Bank account of different ex-employees as per annexure H(a) cannot be considered as compliance of the direction given u/s 7O of the Act in respect of the present appeal or the 7Aorder challenged therein. There is no material before this tribunal to conclude that the ex-employees in whose account the amount has been deposited are the beneficiaries in respect of the inquiry which has been challenged in this appeal. Not only that, there is also no material on record at present to believe that the present 7Ainqiry is the only such inquiry pending against the appellant/establishment. The possibility that the amount so paid to the ex-employees by the order of the Hon'ble Supreme Court was in respect of some other liability cannot be ruled out. Thus, the oral submission in this regard as made by the Ld. Counsel for the appellant today is not accepted.

Presiding Officer