

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL

NO.1 MUMBAI

Present

Justice Ravindra Nath Kakkar

CGIT-1/EPFA/67 OF 2017

M/s Ludhiana Woolen and Silk Mills Ltd

... Appellant

Vs

Asistant Provident Fund Commissioner, Thane

...Respondent

Presence:

For the Appellant

:Mr.H.L.Chhedda (A.R)

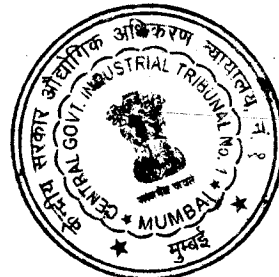
For the Respondent

: Mr. Suresh Kumar, Adv.

Mumbai, dated 15th July 2021.

Judgment

1. The Appellant has filed application u/s 7-L (2) of Employees' Provident Fund and Miscellaneous Provision Act, 1952 read along with Rule 21 of the Employees' Provident Fund Appellate Tribunal (Procedure) Rules, 1997 and u/s 151 of the Code of Civil Procedure for review of the final order dated 03-10-2016 passed by the Employees' Provident Fund Appellate Tribunal, New Delhi.
2. It is stated by the Appellant that his arguments raised before the Tribunal has not been monitored while passing the final order dated 03-10-2016.
3. Respondent opposed the review application by filing reply and affidavit in support of the final order dated 03-10-2016 passed by Employees' Provident Fund Appellate Tribunal, New Delhi.
4. Heard both the parties at length



5. In order to appreciate and adjudicate the review petition, the relevant provisions are reproduced as below:

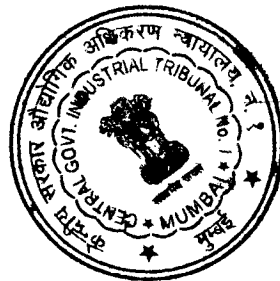
Section 7-L (2) of the Employees' Provident Fund and Miscellaneous Provision Act, 1952:

"(2) A Tribunal may, at any time within five years from the date of its order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (1) and shall make such amendment in the order if the mistake is brought to its notice by the parties to the appeal: Provided that an amendment which has the effect of enhancing the amount due from, or otherwise increasing the liability of, the employer shall not be made under this sub-section, unless the Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard."

and Rule 21 of the Employees' Provident Fund Appellate Tribunal (Procedure) Rules, 1997:

"21. Orders and directions in certain cases.—The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice."

6. Now perusal of the final order dated 03-10-2016 shows that order of the Tribunal was passed on merits of the case after considering the submissions as raised by both the parties before the Tribunal.
7. The major issue of the Appellant is with regard to the financial crises and hardships of the establishment for the delayed remittances of the statutory dues which has not been favored as valid ground by EPFA Tribunal, New Delhi.
8. In this way, the Appellant wants to challenge the final order of the Employees' Provident Fund Appellate Tribunal, New Delhi passed on 03-10-2016 by filing the review application before this Tribunal on the very same ground as contended before the EPFA Tribunal earlier.



9. It is relevant and pertinent to mention that plane reading of section 7-L (2) of the Employees' Provident Fund and Miscellaneous Provision Act, 1952 read with Rule 21 of the Employees' Provident Fund Appellate Tribunal (Procedure) Rules, 1997 pertains to rectification of any mistake apparent from the face of record.
10. The purpose behind this provision is for the rectification of mistakes which is apparent from the face of the record for example- clerical, typing, or arithmetical mistakes. Patent errors are to be looked for and not the latent errors touching the merit of the case after reconsideration or reassessment of the earlier order. In review petition, only the ex-facie view is permissible to correct the order.
11. I make it clear that this Tribunal is not sitting as Appellate authority to hear the appeals of the final orders passed on merits by the EPFA Tribunal, New Delhi.
12. In view of the aforesaid reasons, I am of the considered opinion that application filed by the Appellant u/s 7-L (2) of the Employees' Provident Fund and Miscellaneous Provision Act, 1952 read with Rule 21 of the Employees' Provident Fund Appellate Tribunal (Procedure) Rules, 1997 by way of appeal is to be dismissed and is accordingly dismissed with no order as to cost.
13. The copy of the order be sent to both the parties and file be consigned to the record room after due compliance.




(JUSTICE R.N. KAKKAR)
PRESIDING OFFICER