

CGIT-1/EPFA/Misc/52(C) OF 202112.08.2021CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1 MUMBAI

Present :

Justice Ravindra Nath Kakkar

M/s. Jankalyan Education & Welfare Society ... Appellant
Vs

Assistant Provident Fund Commissioner ... Respondent

Thane.

Presence:

For the Appellant : Mr.A.Mathews, Adv

For the Respondent : Mr.Ravi Rattesar

ORDER

1. The present appeal is filed by the appellant under section 7(I) of the EPF & MP Act, 1952 (hereinafter referred to as 'Act') against the order dated 27.01.2021 passed by the Assistant Provident Fund Commissioner, the Respondent under section 14-B of the Act for an assessed amount of Rs.1,75,660/- for the period 08/2016 to 01/2017. The said order dated 27.01.2021 was received by the Appellant on 22.04.2021.
2. An appeal against the impugned order dated 27.01.2021 was filed on 02.08.2021. Along with this appeal, three Miscellaneous Applications (1) Condonation of delay (2) Application for Waiver of deposit under proviso to Section 7-O and (3) Application for grant of stay has also been filed by the Appellant.
3. The appellant submitted that the period limitation be counted from the receipt of the order on 22.04.2021. The appellant stated that the interest amount levied under Section 7-O has already been deposited. The Appellant further stated that the Hon'ble Supreme Court of India, on March 23rd, 2020 considering the spread of coronavirus and lockdowns, passed an order with effect from 15th March 2020, in Writ Petition (Civil) No (S) 3/2020 has extended the period of limitation prescribed under General or Special laws, whether condonable or not has extended w. e. f. 15-03-2020 till further order

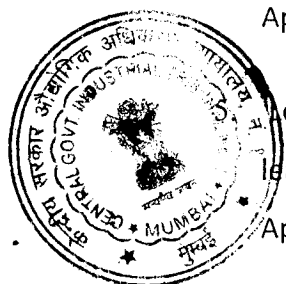


which reads:- *"To obviate such difficulties and ensure that lawyers/litigants do not have to physically to file such proceedings in respective courts/ tribunals across the country including this court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation period prescribed in all such proceedings, irrespective of the limitation period prescribed under the Special law or general law whether condonable or not shall stand extended w. e. f. 15th March 2020 till further order/s to be passed by this court in present proceedings".* The above stated order is passed by the ^{Honble} Supreme Court of India invoking its powers under Article 142 of the Constitution of India, which empowers ^{Honble} Supreme Court of India to pass such "decree or order as may be necessary for doing complete justice between the parties". Invoking the above said powers, Hon Supreme Court of India passed the above said order "suo-moto".

4. The Appellant further stated that, the Hon Supreme Court of India, on 27.04.2021 in the same petition further ordered the extension of the limitation period till further period considering the difficulties faced by litigations due to spread of the coronavirus in its second wave by observing *"It is further clarified that the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings".* Accordingly, the present appeal is within the limitation period prescribed as per Rule 7(2) of the Employees' Provident Fund Appellate Tribunal (Procedures) Rules, 1997 and prayed for condonation of delay in filling the Appeal memo.

The learned counsel for the Respondent opposed the Delay Condonation application. The learned Counsel for the Respondent did not denied on the citations referred by the Appellant.


6. Perused the record and heard the parties.
7. Considering the facts and circumstances of the case, the grounds shown in the delay condonation application is found to be bonafide and genuine and also in view of the



ratio laid down by the Hon'ble Supreme Court of India as mentioned above, the computation of period of limitation in filing this appeal is to be excluded.

8. Accordingly for the reasons stated above, this delay condonation application is to be allowed and accordingly allowed.
9. As the Appellant has already paid the interest amount levied under Section 7-Q of the Act, no coercive action shall be taken against the appellant till Waiver application is disposed of.
10. Miscellaneous application EPF-52(C) is disposed of accordingly.
11. Fix on 01.10.2021 for hearing on Waiver application.




(JUSTICE RAVINDRA NATH KAKKAR)
PRESIDING OFFICER