

**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-2/40/2022

M/s. Sai Engineering

Appellant

VS.

RPFC, Gurgaon (W)

Respondent

ORDER DATED :-19/01/2023

Present:- Shri Manish Malhotra, Ld. Counsels for the Appellant.
Shri B B Pradhan, Ld. Counsel for the Respondent.

This order deals with the admission of the appeal and the prayer made for an order of interim stay on the execution of the impugned orders pending disposal of the appeal for the grounds taken in the appeal.

The appeal challenges the orders dated 25/11/2022, forwarded on 29/11/2022, passed by the RPFC Gurugram, imposing damage and interest of Rs 1,40,925/- and 98,567/- respectively on the appellant establishment for the delay in remittance of the PF dues of it's employees for the period 1/04/1996 to 29/10/2021.

Notice being served, the Respondent appeared through it's counsel who participated in the hearing held on admission of the appeal and prayer for interim stay.

Perusal of the Report of the Registry reveals that the impugned orders were passed on 25/11/2022 and the appeal was filed on 06/12/2022, i.e within the prescribed period of limitation. There being no other defect pointed out, the appeal is admitted.

While moving the application praying interim stay on execution of those orders the learned counsel for the appellant submitted that the appellant is a proprietary concern and since the date of coverage, it has been very sincere in making compliance of the statutory PF dues of the employees. The Respondent in the last week of October 2022, issued a summon for a joint inquiry u/s 14B and 7Q of the Act. Alleging delayed remittance in respect of a long period of time. The appellant establishment appeared through it's counsel virtually and by writing an e-mail a request was made for supply of the notice along with the details forming the basis for the inquiry. The same was supplied through e mail and the establishment by mail dated 14.11.22. Submitted it's detail reply, which was received by the Respondent. On the next day i.e on 15/11/2022, the counsel for the appellant participated in the virtual hearing and apprised about the reply submitted on 14/11/2022. But surprisingly no further hearing was held and on 29/11/2022, the impugned orders were passed without considering the submission of the establishment disputing the allegation of delay. Thereby the commissioner passed a non speaking order. He also argued that the order since passed pursuant to a common proceeding is a composite order. The orders are illegal for want of reasoning and need to be stayed by an interim order pending disposal of the appeal.

In reply the learned counsel for the Respondent while supporting the order as a well reasoned order argued that the establishment as observed in the order had accepted the demand notice and did not raise any dispute. Hence the order was passed. He also added that the commissioner has passed two separate orders and those can not be treated as composite orders. Order passed u/s 7Q not being open for appeal, the order passed under the said section can not be dealt in this appeal.

At this stage no material is available to examine the composite nature of the order. Similarly, no roving inquiry can be made on the merit of the appeal. But considering the fact that the assessment of damage is in respect of a very long period, it is felt proper to extend a protection to the appellant against the order passed u/s 14 B of the EPF &MP Act. But the said order of stay shall not be unconditional but

on deposit of a nominal amount of 25% of the assessed damage by way of challan within 4 weeks from the date of this order failing which, there shall not be stay on the order passed u/s 14B. It is made clear that the interim stay granted shall not operate in respect of the order passed u/s 7Q of the Act as the same is not appealable. Call on 23.02.2023 for compliance of the direction given in this order and reply to be filed by the Respondent.

Presiding Officer