

**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.

**Appeal No. D-1/42/2021**

M/s Sinhal Metal Industries

Appellant

Vs.

RPFC/APFC, Delhi North

Respondent

**ORDER DATED -17/01/2022**

Present:- Shri Satender Verma, Ld. Counsel for the Appellant.  
Shri Avinash Singh, Ld. Counsel for the Respondent.

This order deals with the admission of the appeal filed u/s 7I of the EPF and M P Act challenging the order passed u/s 7Q of the Act by the APFC, Delhi. Since the Registry raised objection on the maintainability of the appeal, notice was issued to the respondent and the matter was heard on the point of maintainability .

The learned counsel for the appellant while drawing attention to the impugned order and the provision of law laid u/s 7 I of the Act submitted that an independent order passed u/s 7Q is not appealable, but a composite order when passed along with an order either u/s 7A or 14B of the Act is appealable. And this being a composite order, the appellant has a right to appeal as has been held by the Hon'ble SC in the case of Arcot Textiles Mills Ltd vs RPFC & Others, 92013)16, SCC 1, and recently by the Hon'ble High Court of Delhi in the case of Gaurav Enterprises vs Union of India (WPC No8485/2021).

The learned counsel for the Respondent per contra submitted that the commissioner though on the same day, has passed two separate orders and there is no material on record that a common proceeding was held for assessment of damage and calculation of interest. Hence, no opinion in that regard can be formed and the appeal as has been framed is not maintainable.

Plain reading of the provision of law u/s 7 I shows that the order passed u/s 7Q calculating the interest payable is not appealable to the Tribunal. The position of law in this regard was discussed by the Hon'ble SC in the case of Arcot Textiles referred

supra and it was held that the order passed u/s 7Q if a composite order being passed u/s 7A is amenable to appeal u/s 7I of the Act. It was further held that any composite order a facet of which is appealable, the other part would be appealable too. If an independent order is however passed, no appeal would be maintainable in respect of the interest compound under section 7Q of the Act.

The position was again discussed by the Hon'ble High Court of Delhi in the case Gourav Enterprises referred supra and it has been held that in order to determine if the order passed u/s 7Q is an independent order or composite order, the facts relevant for consideration are

- 1- if the notice to show cause was common
- 2- if common reply was filed by the establishment
- 3- if common proceedings u/s 14B and 7Q were held
- 4- if two separate orders or a common order was passed.

The Hon'ble court have further held that, if the notice to show cause, reply to the notice and proceedings are common, mere passing of two separate orders on the same date would not render the proceedings under section 14B and 7Q independent of each other.

In this case as seen from the impugned order a common show cause notice dt 17.6.2021 was issued to the appellant establishment along with a common calculation sheet attached as Annexure A calling the appellant to show cause in respect of the proposed damage and interest. The establishment after appearance filed a common reply which was taken on record by the commissioner. There is no material on record to believe that separate proceedings were held. At the end of the inquiry, on the same day the commissioner however had passed two separate orders assessing damage and calculating interest. But for the discussion in the preceding paragraphs and for the principle decided in the case of Gaurav Enterprises referred supra, it is held that the impugned order passed u/s 7Q being a composite order is appealable and the appeal being held maintainable is admitted. There would be stay on the execution of the impugned order till disposal of the appeal, subject to deposit of 30% of the calculated interest with the Respondent through challan within six weeks from the date of communication of this order. Non compliance of the order will have the effect of rejection of the prayer of interim stay. Call the matter on 07.03.2022 for compliance of the direction and filing of reply by the Respondent.

(Presiding Officer)