

**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-2/10/2021

M/s Shiv Nadar University

Appellant

Vs.

RPFC, Noida

Respondent

ORDER DATED:-03-May-2021

Present:- Shri S.K. Gupta, Ld. Counsel for the Appellant.
Shri B.B. Pradhan, Ld. Counsel for the Respondent.

This order deals with condonation of delay and admission of the appeal. Perusal of the office note reveals that the impugned order was passed on 27.11.2020 u/s 7A of the EPF and MP Act against the appellant and the appeal has been filed on 23.03.2021 i.e. beyond the period prescribe for filing of the appeal. Thus, the office has objected regarding the maintainability of the appeal as barred by limitation.

Notice being served the respondent appeared through its counsel.

On behalf of the appellant it has been stated that the commissioner passed an arbitrary award directing deposit of Rs. 78,46,929/- as the deficit PF subscription of its employees for the period 04/2012 to 03/2018. The documents placed before the commissioner was never considered. However, the appellant under protest deposited the entire amount assessed u/s 7A of the Act with regard to the delay it has been stated that the impugned order was passed on 27.11.2020 but the same was received by the appellant on 11.12.2020.the appellant took some time for preparation of the appeal memo and collection of document. He thus, filed the appeal on 23.03.2021. The Ld. Counsel for the appellant further stated that the appeal thought has been filed beyond the statutory period of limitation of 60 days from the date of dispatch of the order, the same is well within the extended period of 120 days in respect of which the tribunal is competent to exercise the discretion for the ongoing difficult condition on account of covid-19. Citing the judgment of the Hon'ble Supreme Court in the case of suomoto WPC No. 3/2020 he urged for condonation of delay and admission of the appeal. The Ld. Counsel for the respondent fairly considered to the direction of the

Hon'ble Supreme Court passed in suomoto WPC No. 3/2020. Hence, considering the prevailing circumstances and the fact that the order was communicated to the appellant on 07.12.2020, which is evident from the LCR received from the respondent and the fact that the appeal has been filed within 120 days from the date of receipt of the order, it is felt to be a fit case for condonation of delay. Accordingly the delay is condoned.

For admission of the appeal challenging the order passed u/s 7A of the Act compliance of the provision of 7O is mandatory. In this case the appellant has stated that he has deposited the entire assessed amount under protest. The Ld. Counsel for the respondent confirmed the same and the contention find support from the documents available in the LCR. The Provision of section 7O since has been comply the appeal is admitted. In view of deposit of the entire assessed amount nothing more is left to be recovered from the appellant with regard to this proceeding. Hence, there is no need for passing any order of interim stay. But the Ld. Counsel for the appellant submitted that the tribunal should pass an order considering the bonafides of the appellant in the nature of a direction to the respondent not to initiate any proceeding u/s 14B or 7Qof the Act. This prayer is not maintainable since, the tribunal lacks the jurisdiction of issuing any such direction to the EPFO in the capacity of an appellate authority. The prayer is accordingly not accepted.

Call the matter on 07-July-2021 for filing of reply by the respondent.

Presiding Officer