

**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-2/39/2022

M/s. Sudhir Power Ltd.

Appellant

VS.

RPFC-II, Faridabad (Haryana)

Respondent

ORDER DATED :-19/01/2023

Present:- None for the Appellant.
Shri B B Pradhan, Ld. Counsel for the Respondent.

This order deals with the admission of the appeal and the petition filed u/s 7O of the Act praying waiver of the condition laid down under the said provision.

Copy of the appeal being served on the respondent the Ld. Counsel for the respondent appeared and participated in the hearing for admission and consideration of the application filed u/s 7O of the Act.

The appeal challenges the orders dated 16.08.2022 and 07/11/2022 passed u/s 7A and 7B of the act respectively. In the petition filed u/s 7O it has been pleaded that the appellant is a Pvt. Ltd. Company engaged in manufacture, supply, installation and commissioning of Diesel Gen Sets. Since the date of coverage it is diligent in deposit of the PF contribution of its employees. An inquiry u/s 7A was initiated against the appellant for the period 01.04.2018 to 31.12.2019 assessing the dues payable in respect of excluded employees, apprentice and towards nonpayment of EDLI. The respondent inspite of the objection and stand taken by the appellant assessed the dues against these heads and the said

assessment was made without considering and verifying the facts on record. That order being wrong and illegal for non consideration of the reply and records submitted by the appellant establishment, the later filed a review application u/s 7B of the EPF Act on 29.09.2022. Registering the said application the respondent issued notice dated 13.10.2022 to the appellant wherein the date was fixed to 19.10.2022 for appearance and participation in the hearing. But the notice was received by the management on 27.10.2022 and from the postal cover the appellant could know that the notice was sent by post on 19.10.2022 only the date on which the appellant had to appear for hearing of the 7B application. However, the appellant without any further delay submitted a detail reply alongwith all relevant documents on 31.10.2022. But the same was never considered. On the contrary the respondent arbitrarily dismissed the review application by order dated 07/11/2022. Being aggrieved the present appeal has been filed. In the memo of appeal it has been pleaded that the demand for contribution towards EDIL is not legal since, the appellant has taken LIC policy. Though documents relating to LIC contribution were brought to the notice of the commissioner the same was not considered. Similarly documents were produced in respect of the excluded employees but that too was not considered. The commissioner passed the order in a haste and the appellant has a strong prima facie case to argue. The amount of contribution has been calculated on the basis of an imaginary formula and insistence for a pre deposit of 75% for admission of the appeal would be too harsh since the appellant does not owe any amount for deposit as assessed by the commissioner. Thereby the appellant argued for waiver of the pre condition stipulated u/s 7O of the Act and admit the appeal and pass an interim order of stay on execution of the impugned orders.

In reply the Ld. Counsel for the respondent while supporting the impugned order as a reasoned order pointed out that the order u/s 7B was duly passed as no new and additional circumstances were pointed out. While arguing on the purpose of the beneficial legislation he insisted for compliance of the provision of section 7O by depositing 75% of the assessed amount.

Considering the submission advanced by the counsel for both the parties an order need to be passed on the compliance/waiver of the condition laid under the provisions of section 7O of the Act. The appellant has raised various points touching the legality of the order impugned in the appeal.

Without going to the details as pointed out by the appellant challenging the order as arbitrary and when the detail reply to the appeal is yet to be filed by the respondent, it is not felt proper to form any opinion on the merit of the appeal. However considering the period for which the inquiry was initiated and the amount assessed which is more than 90lakhs and keeping the plea of undue hardship which is likely to be caused to the functioning of the appellant if 75% of the assessed amount is deposited, it is felt proper to reduce the condition of pre deposit contemplated u/s 7O of the Act from 75% to 30% which would serve the ends of justice. Accordingly it is directed that the appellant shall deposit 30% of the assessed amount towards compliance of the 7O of the Act by producing an FDR for the said amount within a period of 4 weeks prepared in the name of the Registrar of CGIT initially for one year with provision of auto renewal. Call on 23.02.2023 for compliance of the direction. On compliance of the direction the appeal shall be admitted and there would be interim stay on execution of the impugned order till disposal of the appeal. The interim order passed earlier shall continue till the next date of compliance.

Presiding Officer