

**BEFORE THE PRESIDING OFFICER, CENTRAL  
GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR  
COURT, 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-1/01/2022**

M/s Vibhor marketing Pvt. Ltd.

Appellant

VS.

APFC/ RPF, Delhi East

Respondent

**ORDER DATED:08/02/2022**

Present:- Ms. Neha Shrivastava, Ld. Counsel for the Appellant.  
Sh. S.N. Mahanta, Ld. Counsel for the Respondent.

This order deals with appellant's prayer for condonation of delay, admission of the appeal and stay on the execution of the impugned orders pending disposal of the appeal.

The appeal challenges two separate orders passed u/s 7A of the Act for the same period under inquiry. The period of inquiry in both the proceedings are 04/2008 to 03/2012 and 04/2015 to 12/2018. The first order dt 29.03.2019, assessing Rs 43,91,434/- has been described as interim order, whereas the order dt 31.01.2020 assessing Rs 13,43,741/- has been described as the final order u/s 7A of the Act. In the said orders the appellant has been directed to deposit Rs 13,43,741/- towards the unremitted EPF dues of its employees for the above said period.

Notice being served on the respondent, learned counsel Sh S N Mahanta appeared and participated in the hearing held by video conferencing.

Perusal of the record and office note of the registry reveals that the impugned last order was passed on 31.01.2020 and the appeal has been filed on 03.01.2022, i.e. beyond the period of limitation. Thus a separate petition has been filed by the appellant praying condonation of delay for the reasons explained therein. Another prayer has been made for stay on the execution of the impugned orders passed u/s 7A of The Act pending disposal of the appeal. Appellant has filed several documents to support the stand taken in the appeal.

Since, the registry has pointed out about the inordinate delay in filing of the appeal and Respondent's counsel took serious objection to the same, it is desirable that the prayer for condonation of delay be dealt at the first instance.

It has been contended that the establishment against which the impugned order has been passed was served with a summon for inquiry and the AR of the establishment appeared and participated. That inquiry was on the basis of some complaints and records received from ESI Hospital to which the appellant establishment had supplied man power. Since the first order was an interim order and the second order was the final order and for both the inquiries were on the basis of a common summon be treated as composite orders. The last order was passed on 31.01.2020 and before filing of appeal within the prescribed period of limitation, lock down happened on account of outbreak of Covid. The Hon'ble SC in suomoto WPC NO 3/2020 have extended the period of limitation and the appellant is entitled to the benefit of the same.

The learned counsel for the respondent during course of his argument submitted that the impugned order was passed on 31.01.2020 and on the same day it was dispatched in the address of the appellant. However he fairly conceded about the extension of limitation granted by the Hon'ble SC. Considering the submission it is held to be a fit case for condonation of delay.

The other petition filed is u/s 70 of the Act praying waiver of the condition of pre deposit for admission of the appeal. While pointing out the defects and discrepancies in the impugned order including non identification of beneficiaries, he submitted that the appellant has a strong arguable case in the appeal and the Tribunal should not act in a hyper technical manner in dealing with the application filed u/s 70 of the Act. He also pointed out how the commissioner acted upon the Report of the EO and pursuant to one set of summon conducted the inquiry twice determining two distinct amount payable for the same period. He thus submitted that the order challenged in this appeal suffers from patent illegality and the appellant has a strong case to argue, he prayed for waiver of the condition of pre deposit for admission of the appeal.

In his reply the learned counsel for the Respondent submitted about the legislative intention behind the beneficial legislation and argued that the establishment omitted to deposit the pf contribution of the employees for a pretty long period and the circumstances do not justify total waiver of the pre deposit.

The impugned order is silent about the identification of the beneficiaries in respect of whom the establishment defaulted in remittance. Of course the appellant strenuously canvassed the grounds of the appeal and the defects in the impugned order to make this tribunal believe at this stage about its fair chance of success. But the Tribunal at this stage is not expected to make a roving inquiry on the merit of the appeal when respondent is yet to file its objection.

In this case the period of default as seen from the impugned order is long, and the amount assessed is equally big. Hence on hearing the argument advanced, it is held that the circumstances do not justify total waiver of the condition of pre deposit, but ends of justice would be served by reducing the same to 30% of the assessed amount. Accordingly it is directed

that the appellant shall deposit 30% of the amount assessed by order dated 31.01.2020 towards compliance of the provisions of sec 70 of the Act by way of FDR in the name of the Registrar CGIT initially for a period of one year with provision of auto renewal, within six weeks from the date of communication of the order failing which the appeal shall not be admitted. Call on 29-March-2022 for compliance of the direction .Interim order of stay granted earlier shall continue till the next date.

(Presiding Officer)