

**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-1/09/2018

M/s. Perfect Computer Forms Pvt.

Appellant

VS.

APFC, Delhi (S)

Respondent

ORDER DATED :-12/1/2022

Present:- Shri Puneet Saini, Ld. Counsel for the Appellant.
Shri Rajesh Kumar, Ld. Counsel for the Respondent.

This order proposes to disposed of the application filed by the appellant u/s 151 C.P.C and u/s 7L(2) and 7(J) of the EPF Act seeking procedural review of the order dated 12.03.2018 and for condonation of delay. Reply to the petitions have been filed by the Ld. Counsel for the respondent. The matter was argued by the counsel for both the parties on 08.12.2021.

The back ground facts leading to the present petition in short is that the appellant, challenging the recovery notice dated 28.04.2016 pursuant to an order passed u/s 14B of the Act filed the appeal on 22.02.2018. The matter came up for admission on 12.03.2018. Considering the submission and the objection raised by the registry with regard to the maintainability of the appeal challenging the recovery notice an order was passed on 12.03.2018 holding that the appeal against the recovery notice is not maintainable at the first instance. Moreover, the appeal is barred by limitation being filed beyond the prescribed period of limitation. Resultantly the appeal was rejected without admission. On 11.04.2018 the appellant filed one review application u/s 7L(2) alongwith a petition u/s 151 CPC praying review of the order dated 12.03.2018 and condonation of delay if any. Alongwith that petition the copy of the order passed u/s 14B was filed. The respondent was called upon to reply the said petitions and accordingly on 17.05.2018 the reply was filed. Thereafter on 24.05.2018 the application filed u/s 7L(2) was heard in part and the matter suffered adjournments on 07.06.2018, 19.07.2018 and 30.08.2018 and 19.09.2018. On that day the review application was again dismissed for non-appearance of the counsel for the appellant. Thus, on 26.03.2019 the appellant filed another petition u/s 151 CPC praying revival of the 7L(2) application, condonation of delay and admission of the appeal.

During course of argument the Ld. Counsel for the appellant submitted that an undated order passed u/s 14B was served on them and as such the appellant did not file the appeal on time. However, when the recovery notice was served they preferred the appeal which was held not maintainable by order dated 12.03.2018. Against that order a prayer for review was made by invoking the provisions of section 7L(2) alongwith an application for condonation of delay. But unfortunately when the matter was taken up the counsel for the appellant could not appear as he had noted a wrong date and appeared before the tribunal on 29.10.2018 and learnt about the order of dismissal passed on 19.09.2018. He thereby submitted that the non appearance of the counsel on 19.09.2018 leading to dismissal of the 7L(2) was not intentional but for a reason beyond the control of the appellant. With regard to the delay in filing of the appeal it has been stated that the tribunal has ample power to condone the delay under the provisions of section 7J of the Act.

The Ld. Counsel for the respondent submitted that the statute grants 60 days time for filing of the appeal which can be extended for a further period of 60 days at the maximum under the circumstances of a particular case. While placing reliance in the case of **Saint Soldier Modern Senior Secondary School vs. RPFC decided by the Hon'ble High Court of Delhi in WPC No. 2839/2014 decided on 20.05.2014** he submitted that the tribunal can extend the period of limitation for a further period of 60 days after expiry of the first 60 days and not beyond that. When as per their own admission they were supplied with a copy of the 14B order even though the same was not having a date mentioned on it, they should have file the appeal in time. The appeal having been filed beyond the prescribed period of limitation is hopelessly barred by limitation and cannot be admitted.

On perusal of the record it is found that alongwith the 151CPC petition the appellant has filed the complete memo of appeal in which he has also filed the copy of the impugned order dated 28.04.2016. The order seems not endorsed with any date below the signature of the commissioner nor there is any endorsement on the face of the record regarding dispatch of the same to the appellant establishment. Thus, from the circumstances it only appears that the appellant came to know about the impugned order only when the recovery notice was served and soon thereafter he filed the appeal challenging the said recovery notice.

There is no doubt that the tribunal is vested with the power of extending the limitation for a further period of 60 days only. But in appropriate cases and in the interest of justice the said period can be extended and delay can be condoned as the courts exists to sub-serve the cause of justice and not punish the parties for the mistake committed in conduct of the cases.

Hence the petition filed u/s 7L(2) of the EPF Act and u/s 151 CPC are hereby allowed. The delay is condoned and the appeal is admitted. Call on 22.02.2022 for filing of reply by the respondent.

Presiding Officer