

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1

MUMBAI

Present

Smt. Pranita Mohanty, Presiding Officer

M/S. Sanjay Educational Society

Vs

RPFC, Nashik

CGIT-1/EPFA-99 OF 2021

Appearance:

For the Appellant : Mr.H.L.Chheda
Authorized Legal Representative

For Respondent No.1 : Mrs. Kashimira Sawant, Adv.

Mumbai, dated the 22nd day of July, 2022.

ORDER

This order deals with the prayer of the appellant for admission of the appeal, condonation of delay and stay on the execution of the impugned order. A separate application has been filed for defreezing the bank account of the appellant. This

case came up today for hearing on admission on account of the mentioning of early haring application filed by the appellant. Notice of the same being served the learned counsel for the respondent appeared and participated in the hearing.

The learned counsel for the appellant contended that the impugned order was passed on 7.9.2021 and the appeal was filed on 29.11.2021 i.e. after expiry of 60 days but the Tribunal has power to extend the period of limitation for a further period of 60 days. Citing the liberal view taken by the Hon'ble Supreme Court in the orders passed in suo moto WPC No. 3 of 2020 for the difficult situation created by the outbreak of covid, he submitted that the Tribunal should condone the delay. The learned counsel for the respondent fairly considered about the extension of limitation granted by the Hon'ble supreme Court till 31.3.2022. Keeping the same decision in view the delay is condoned. There being no other defect pointed out by the Registry the appeal is admitted.

The learned counsel for the appellant submitted that it is a composite order for the common notice served on the appellant and the common proceeding held. Hence, pending disposal of the appeal both the orders be stayed. He also argued that the appellant being an educational institution has already deposited part of the interest amount. To this, the learned counsel for the respondent submitted that only a part of the interest amount has been paid and Rs.2 lakh is still outstanding that is why the bank account has been attached. The learned counsel for the respondent while supporting the impugned order argued on the legislative intention of the beneficial legislation. The appellant on the other hand, argued that when part of the interest has been paid there is no purpose in freezing the bank account. He also submitted that the provisions of section 7-O is not applicable to the proceeding under section 14-B or 7-Q.

On hearing the submissions, a decision is to be taken on the prayer of stay on the execution of the impugned order. The order passed on the section 7-Q is not applicable since the commissioner has passed two separate orders. At this stage, the Tribunal can not make a roving enquiry on the compositeness of the order. Hence, though the appeal in respect of both the orders is hereby admitted, there would not be stay on the execution of the order passed under section 7-Q of the Act but there should be some protection in respect of the order passed under section 14-B. But the said protection or stay order shall not be unconditional. Considering the period of default and the amount assessed, it is directed that there would be a stay on the execution of the order passed under section 14-B of the Act pending disposal of the appeal subject to the condition that the appellant shall deposit 15% of the assessed damage amount with the EPFO within 4 weeks from the date of passing of this order. Once this direction is complied the EPFO authority shall de-attach the bank account of the appellant establishment forth with. This order is passed keeping in view the principle recited by the Hon'ble supreme Court in the case of Mulchand Yadav and another vs. Raja Buland Sugar Company and anr reported in (1982) 3 SCC 484 wherein it has been held that the judicial approach requires that during the pendency of the appeal the impugned order have been serious civil consequence must be suspended.

It is made clear that the appellant if would fail to comply the direction there would be no stay on the execution of the order passed under section 14-B of the Act.

Call the matter on.....for compliance of the direction given above.

PRESIDING OFFICER

CGIT-1 MUMBAI