

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1 MUMBAI

Municipal Corporation for the City

of Ulhasnagar ... Appellant

Vs

Regional Provident Fund Commissioner ... Respondent

Thane

Presence:

For the Appellant : Mr.A.S.Rao, Adv

For the Respondent : Mr. Suresh Kumar, Adv.

ORDER

1.. The present appeal is filed by the appellant under section 7(i) of the EPF & MP Act, 1952 (hereinafter referred to as 'Act') against the order dated 29.10.2020 passed by the Assistant Provident Fund Commissioner, the Respondent under section 7 A (1) of the Act.

2. The appellant has filed application for waiver of deposit u/s 7 (O).



3. Learned counsel for the appellant made submission that this appeal is filed in time against Order dated 29.10.2020 passed under Section 7-A(1)(b) of the EPF & MP Act, 1952 which is well within statutory period of limitation as evident from the scrutiny sheet. Learned counsel for the Appellant submitted that the Municipal Corporation for the city of Ulhasnagar, constituted by the Govt. of Maharashtra under the provisions of the Maharashtra Municipal Corporation Act, 1949 and it is a statutory body carrying out its duties and functions under the provisions of the MMC Act as well as the MRTP Act in the interest of the citizens residing in its territorial limits, concerning providing all the kinds of amenities of basic needs, including health car, roads/streets, public infrastructure etc. The main source of the revenue for discharging all these functions is generated through collection of taxes from the Public. The impugned order arises out of the illegal and arbitrary assessment of the Provident Fund dues for the period from August, 2011 to November 2015 calculated at Rs.59,88,01,835/- The Appellant states that between 01.01.2011 to 30.11.2015 the Appellant has undertaking various works amounting to Rs.5,74,74,58,203/- The Appellant further stated that the Respondent failed to appreciate that the employees of the contractor can under any stretch of imagination be treated as an employees of the Appellant for the reason that none of the employees were working in connection with the work of the Appellant. This appeal is filed alongwith the application for waiver of deposit under proviso to Section 7-O of the EPF & MP Act, 1952. The Appellant has prayed for quashing and setting aside the impugned order dated 29.10.2020 passed by the Regional Provident Fund Commissioner, Thane. The balance of convenience is in favour of the Appellant.



[Handwritten signature]

4. Learned counsel for the respondent opposed the waiver application and submitted that the appellant is required to deposit 75% of the amount. The respondents have prayed that application u/s 7-0 may be rejected.

5. Considering the submissions raised by both sides, I find it proper to pass the following order without going into the merit of the appeal and the grounds raised by both the parties.

(i) Appeal being under statutory period of limitation is hereby admitted.

(ii) Appeal is admitted subject to condition of pre-deposit of 20% of the assessed amount within 3 weeks and on depositing the 20% of the assessed amount, impugned order is stayed till further orders.

Next date fix is 09/04/2021



True copy.

Secretary

Secretary to the Court
Central Government Industrial
Tribunal-cum-Labour Court No. 1
Mumbai

[Signature]

(JUSTICE RAVINDRA NATH KAKKAR)

PRESIDING OFFICER