

**BEFORE THE HON'BLE 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.

M/s. Vishakha Facility Management (P) Ltd.

Appellant

Vs.

RPFC, Delhi (East)

Respondent

ATA No. D-1/115/2019

ORDER DATED:-06.10.2021

Present:- Shri Rahul Sharma, Ld. Counsel for the Appellant.
Shri Rajesh Kumar, Ld. Counsel for the Respondent.

The matter has been listed today for compliance of the direction of the Hon'ble High Court passed in WPC No. 5630 of 2020 wherein the Hon'ble High Court have directed the appellant to deposit Rs. 50,00,000/- towards the compliance of the provision of Section 70 of the EPF and MP Act as a pre condition for admission of the appeal. In the said order dated 09.09.2021 the Hon'ble Court have directed for listing the matter on 04th October 2021 for appropriate orders. Since the respondent through its counsel informed about the order on 4th October and none had approached the tribunal on behalf of the appellant it was listed today.

The Ld. Counsel for the appellant appearing through VC submitted that the appellant has suffered seriously on account of freezing of its account by the respondent and intimation given to its clients not to disburse any amount. It has more than 2crores deposited as EMD with its business partner IHBAS. Earlier EPF had taken steps for recovery of the assessed amount made against the appellant from IHBAS. Hence, EPFO may be directed to appropriate 50,00,000/- from the EMD of the appellant lying with IHBAS.

Ld. Counsel for the respondent raised serious objection.

On the direction of the Tribunal the recovery officer of EPFO also appeared and participated in the hearing. The Recovery Officer submitted on record that no such request for appropriation was earlier received from the appellant. Today only at 2:24PM such a request has been received through email to which reply has been given to the appellant. He also submitted that for necessary compliance of the order passed by the Hon'ble High Court, all the accounts of the

appellant freezed earlier have been defreezed and all his business partners have been intimated that no recovery action is proposed against the appellant pending disposal of the appeal.

In the order dated 9th September 2021 a direction has been given to the appellant to deposit Rs. 50,00,000/- before this tribunal towards compliance of the provisions section 70. The appellant thus, is under the obligation of complying the same before the date fixed by the Hon'ble High Court. Moreover, IHBAS is not a party to this proceeding and no direction can be given to IHBAS to release a part of the EMD which is a security for a different purpose, towards compliance of the provision of section 70 of the Act. The Ld. Counsel for the appellant requested for extension of time which cannot be entertained since, the time has been fixed by the Hon'ble High Court.

From the totality of the circumstances it is evident that the appellant has failed to comply the mandatory provision of section 70 of the Act in terms of the direction given by the Hon'ble High Court. For such non compliance the appeal stands dismissed. The interim order granted earlier is accordingly stands vacated.

Presiding Officer