

Digest Of Interim Orders Of EPF Tribunal Appellate

Scope of waiver of pre-deposit of 75% of determined amount under section 7-O of the EPF&MP Act.

An appeal was filed by the appellant before the Central Government Industrial Tribunal- cum-Labour Court, Hyderabad, challenging the order dated 19.07.2018, passed by the EPF Authority under section 7-A of the Act along with an application for waiver of condition of pre-deposit of 75% of the assessed amount, under section 7-O of the Act and another application for stay of operation of the impugned order.

Reasons & Decision:

The EPF Appellate Tribunal after having perused the appeal memo along with materials available on record and observed that the issue raised by the appellant in his oral submission as well as per the appeal memo are of the nature that under discretion at the stage of the final hearing of the case. The appellant has not made out a prima facie case for total waiver of the condition of pre-deposit. Accordingly, the appellant is hereby directed to deposit an equivalent 35% of the determined amount with the respondents within six weeks of this order. Subject to said deposit, the application under section 7-O of the Act is allowed. Appeal is admitted for consideration. The operation of the impugned order is stayed till disposal of the appeal. EPF Authority is directed not to take any coercive measures till disposal of the present appeal. Next date for hearing is fixed for 28.09.2018.

M/s. Automotive Manufacturers Ltd. vs. Regional Provident Fund Commissioner-1, Hyderabad, E.P.F.APPEAL No.28/2018 Dt/-10.08.2018.

An order levying damages without explaining reasons thereto is not sustainable

An appeal was filed by the appellant before the Central Government Industrial Tribunal-cum-Labour Court, Lucknow, challenging the order dated 16.10.2014, passed under section 14-B of the Act, by the EPF Authority.

Brief Facts:

Appellant contends that despite financial crises, it has been depositing EPF dues and there no malafide intention. Delay, if any, has taken place due to extreme financial crises only and neither intentional or deliberate. The EPF Authority have not considered the documents submitted by the appellant during the proceedings under section 7-A of the Act. The EPF Authority have passed an unreasonable and a non-speaking order, directing the appellant for remittance of a heavy amount within 15 days. EPF Authority contends that financial loss will not obliterate the statutory liability of the appellant after giving it proper opportunities to submit its defence, if any.

Reasons & Decision:

The EPF Appellate Tribunal observed that appellant's case is that the delay, if any, had neither been intentional nor deliberate but due to poor financial crises but the EPF Authority has failed to appreciate the version of the appellant. No doubt, the appellant has made breach of civil obligation attracting penalty under the Act irrespective of the fact whether it took place due to guilty intention or not. As per guidelines by the Apex Court, the EPF Authority has given dates of proceedings but utterly failed to bring the reply/explanation of the appellant. EPF Authority has not explained the facts and circumstances which led it to draw a conclusion for levy of damages. Impugned order being unreasonable and non-speaking is set aside.