BOMBAY HIGH COURT
Hon'ble Mr. Ravindra V. Ghuge, J.
Hon'ble Mr. R.M. Joshi, J.
CA No. 6870/2024 in W.P. No. 2793/2024,
Dt/– 26-7-2024

Employees' Provident Fund Organization
v.
M/s Jain Irrigation Systems Ltd.

EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952 – Section 7-O – Since EPF Appellate Tribunal was not functioning, employer challenged order passed by EPF Authority in writ petition – Writ Court directed the employer to deposit 75% of the assessed amount as per section 7-O of the Act for entertaining the Appeal – Employer deposited that amount with Appellate Tribunal – EPF Authority has filed present writ petition seeking direction to transfer that amount to EPF Authority – Held, when an Appeal is filed under section 7-I of the Act, the Appellant has to move an Application before the appellate authority for depositing the amount under section 7-O of the Act – If Appellant is not in a position to deposit 75% amount, liberty has to be sought to either reduce the amount or waive the amount – Accordingly, amount, if directed, is deposited before the Tribunal – If the amount is deposited by employer with EPF department, further interest would stop – If the amount is deposited in the Tribunal, interest will continue against the employer – It is for the employer to pray for depositing the amount with the EPF authorities so that levy of further interest would stop – No such request is made by the employer – EPF Authorities would be at liberty to move an Application before the CGIT for transferring the amount to the EPF authorities – The CGIT would consider the application after hearing both the sides and pass an appropriate order – Application is disposed of. Paras 3 to 5

For Appellant: Mr. N.K. Chaudhari, Advocate.

For Respondent: None.

IMPORTANT POINTS

- **In case the Tribunal is not functioning, the employer can move before the High Court for staying coercive action.**
- **If the amount is deposited by employer with EPF department, further interest would stop.**
- **If the amount is deposited in the Tribunal, interest will continue against the employer.**
- **If the amount is deposited with the CGIT, it is for the employer to pray for depositing the amount with the EPF authorities so that levy of further interest would stop.**

JUDGEMENT

Ravindra V. Ghuge, J. and R.M. Joshi, J.–1. By this Civil Application, the original respondent-Employees' Provident Fund Organization seeks review or modification of the order dated 13th and 14th March, 2024 passed in Writ Petition No. 2793/2024.

2. The contention of the EPF department is that this Court has directed the original Petitioner to deposit 75% of the amount as a deposit for entertaining the Appeal. Since the Central Government Industrial Tribunal (CGIT) was not available, that the Petitioner had approached this Court. The issue was with regard to 75% deposit under section 7-O of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952.

3. When an Appeal is filed under section 7-I of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952, the Appellant has to move an Application before the appellate authority for receiving the deposit amount under section 7-O of the Act. If Appellant is not in a position to deposit 75% amount, liberty has to be sought to either reduce the amount or waive the amount. Pursuant to the orders of the Tribunal on such an Application, the amount, if directed, is deposited before the Tribunal.

4. We have entertained the Writ Petition primarily for the reason that the CGIT was not available and the Petitioner was apprehensive of coercive action in view of the orders passed by the EPF authorities under the various provisions of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952. It is in this backdrop, that we directed that the amount should be deposited.

5. It does not call for any debate that if the amount is deposited by the company with the EPF department, further interest would stop since the amount is deposited. If the amount is deposited in the Tribunal/CGIT, the interest component will continue to run against the employer. In such circumstances, it is for the employer to pray for depositing the amount with the EPF authorities so that levy of further interest would stop. No such request is made by the employer.

6. In view of the above, we do not find any reason to review the order. Going by the convention followed, the EPF authorities would be at liberty to move an Application before the CGIT for transferring the said amount from the CGIT to the EPF authorities. If such an application is filed, the CGIT would consider the same after hearing both the sides and pass an appropriate order.

7. With the above observations, *this Application is disposed off*.

Ref: LLR

If you have any questions, feel free to reach out to us on WhatsApp at Jay Shah - +91 9167121333