

सदर्थ सं०
Ref. No.

टिप्पणी एवं आदेश
NOTE SHEET

Central Government Industrial Tribunal/EPFAT, Lucknow

Appeal no. 77/2024

M/s Ajay Prakash Associates vs APFC, Bareilly

23.12.2024

Sri Tushar Mittal, advocate and Sri Srikant Tripathi, advocate for appellant.
Sri R.K. Verma, learned counsel for respondent filed his vakalatnama taken on record.

By means of present appeal u/s 7-I of the EPF & MP Act, 1952, appellant has challenged impugned order dated 16.12.2024 & 20.02.2024, passed u/s 7A & 7B of the EPF & MP Act, 1952 (hereinafter referred to as the Act) by APFC, Bareilly.

Herd learned counsel for parties on admission for some time and after hearing, matter is adjourned at the request of appellant to prepare the case.

List on 21.01.2025 for admission.

(Presiding Officer)

21.01.2025

Heard Sri Tushar Mittal and Sri Srikant Tripathi, learned counsel for appellant and Sri R.K. Verma, learned counsel for respondent.

By means of present appeal u/s 7-I of the EPF & MP Act, 1952 (hereinafter referred to as the Act), appellant has challenged impugned orders dated 16.12.2024, passed u/s 7B of the Act and order dated 20.05.2024, passed u/s 7A of the Act.

Sri R.K. Verma, learned counsel for respondent submits that an appeal against an order u/s 7A & 7B of the Act is not maintainable.

In rebuttal, learned counsel for appellant submits that in view of the judgment passed by Hon'ble Allahabad High Court in case of in **Writ Petition C No. 34869 of 2022 Institute of Engineering and Rural Technology vs. Uol & others**, appellant can challenge an order passed u/s 7A & 7B of the Act.

Prima facie, submission made by learned counsel for appellant is correct; accordingly, I proceed to hear appeal on merit.

Learned counsel for appellant for the purpose of admission and stay submits that after issuing of summons dated 14.10.2021 by which proceeding u/s 7A of the Act initiated before the APFC, Bareilly for the period 04/2018 to 03/2019, applicant/appellant before authority concerned established by way of documentary evidence that appellant is not liable to pay any amount towards section 7A of the Act; as it has remitted amount to authority concerned as per the Act.

However, ignoring the same and solely on the basis of report submitted by the AEO dated 05.01.2021 and on the mere assumption passed impugned order without making any efforts to identify the beneficiaries in whose favour impugned

order has been passed, is totally contrary to the law as laid down by the Hon'ble Apex Court in the case of **Himanchal Pradesh State Forest Corporation Vs. Regional Provident Fund Commissioner (2008) 5 SCC 756**, so the appeal may be admitted and stay may be granted.

Sri R.K. Verma, learned counsel for respondent while rebutting the said contention of appellant submits that impugned order has been passed keeping in view material facts and circumstances of the case as such, appellant is not entitled for any relief.

I have heard learned counsel for parties and gone through record, for the purpose of admission and stay.

From perusal of document on record the position which emerged out that during proceeding u/s 7A of the Act, appellant filed replies/documents etc. to show that appellant is not liable to pay any amount towards section 7A of the Act; however, ignoring the said facts and without giving any finding that why on the basis of same, appellant is not entitled for any relief, impugned order passed, prima facie, submissions made by learned counsel for appellant is correct.

Further, impugned order is passed on the basis of inquiry report submitted by the AEO. Moreover, it is incumbent upon assessing authority to take appropriate steps as per law in order to identify beneficiaries in whose favour impugned order passed in accordance with law as laid down by the Hon'ble Apex Court in the case of Himanchal Pradesh State Forest Corporation (supra), said procedure has not been followed in the present case, prima facie.

For the foregoing reasons, appeal is admitted.

Further, keeping in view the discussions made herein above, as well as the provisions of section 7-0 of the Act in respect to the waiver of the amount, quoted herein below:

"7-0. Deposit of amount due, on filing appeal. No appeal by the employer shall be entertained by a Tribunal unless he has deposited with it seventy-five per cent. of the amount due from him as determined by an officer referred to in section 7A:

Provided that the Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this section."

And law as laid down by the various High Courts while interpreting the law on section 7-0 of the Act, which are as under:

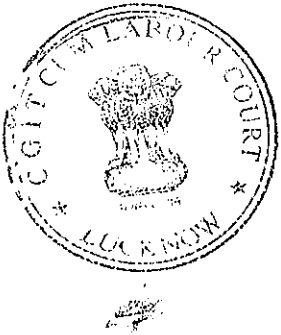
(i) Hon'ble Bombay High Court in the case of Shirpur Shetkari Sahakari Sakhar Karkhana Ltd. through its Chairman M.A. Patil v. The Regional Provident Fund Commissioner-II, Nasik and Another, 2017 LLR 205

(ii) Hon'ble Madras High Court in the case of Q Sources Global Consulting Pvt. Ltd., rep. by the Director, Chennai v. Regional Provident Fund Commissioner-II, Chennai & Ors., 2017 LLR 380.

(iii) Hon'ble Delhi High Court in the case of Dewan Chand and Co. Pvt. Ltd. v. Central Board of Trustee and Another, 2017 LLR 528

(iv) Hon'ble Delhi High Court in the case of, M/s Profacilities Services Pvt. Ltd. V. Central Board of Trustees (CBT) and Anr., 2018 LLR 99.

As well as laid down by the Hon'ble High Court Allahabad in case of **M/s Patton Logistics Pvt. Ltd. V. Employees Provident Fund Appellate Tribunal & anr 2024 LLR 532** and the material on record, submissions made by learned counsel



[Handwritten signature]

संदर्भ सं०
Ref. No.

टिप्पणी एवं आदेश
NOTE SHEET

for parties, if appellant deposits 20% of the impugned sum after adjusting Rs. 15,33,116/-, which has been recovered from appellant, in pursuance to recovery order, with this Tribunal, through a demand draft favouring "Registrar CGIT" payable at Lucknow within a period of eight weeks from receipt of this order, then further operation and implementation of impugned order dated 20.05.2024, passed u/s 7A of the Act and impugned order dated 16.12.2024, passed u/s 7B of the Act by APFC, Bareilly, shall remain stayed and no coercive measure shall be taken against appellant till the next date of listing, in pursuance to the impugned orders dated 20.05.2024 & 16.12.2024.

Counter reply six weeks, rejoinder two weeks thereafter.

List on 08.04.2025.



(Presiding Officer)

APPROVED
08/04/2025

08/04/25

Secretary, Central Labour Court
Lucknow