BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT, ERNAKULAM.

Date: 20-04-2026

**Present: SUSHIL KUMAR-II,
PRESIDING OFFICER**

Appeal No.11/2023
Old No.[ATA 470(7)2009]

BETWEEN

M/s. Abad Exports Private Ltd.,
Bay Pride Building,
Jew Town Road, Kochangadi,
Cochin-682 002. : 1st Party/Appellant

AND

The Assistant Provident Fund Commissioner(Enf)
Employees Provident Fund Organization,
36/685A, Bhavishyanidhi Bhavan,
Kaloor, Kochi – 682017 : II Party/Respondent

Appearance:

For the Appellant	:	M/s. EnochDavid Simon Joel, Advocates
For the Respondent	:	Mr.Sajeev Kumar K.Gopal, Advocate

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This appeal has been preferred against the order dated 12.06.2009 passed by the Respondent authority by its order No.KR/KC/15761/Enf –II(5) /2009 u/s.7A of the EPF & Miscellaneous Provisions Act, 1952 (hereinafter called as 'the Act'), whereby the learned Respondent after conducting enquiry directed the Appellant to pay the dues of Rs.10,52,191/-.

2. As per the facts of the case, on 19.04.2004, the Central Inspection Squad visited the premises of the Appellant and found 108 employees working at the Appellant's establishment at Chennai site. The enquiry was initiated. The Appellant disputed the engagement of 108 employees before the authority

disputed the engagement of 108 employees before the authority Addl.CPF Commissioner(SZ), Hyderabad and alleged that the Squad has prepared an incomplete and fabricated list for so called employees on the instruction and pressure of Mr.S.K.Khanna, who is well known officer, for his ulterior motive and he compelled the Manager in-charge to sign the list and got the acknowledgement of the aforesaid list. The establishment had employed only 13 employees and rest of the employees were never employed by the Appellant at any point of time. The enquiry was transferred to Kochi and the Respondent has issued notice to the Appellant u/s.7A of the Act and the Appellant submitted its written submissions dated 11.02.2009 before the Respondent. But, the Respondent passed illegal order without providing reasonable opportunity of hearing its case before the Respondent. The Respondent authority has been functioning in dual capacity as prosecutor as well as Judge which is against the principles of natural justice and the misuse of jurisdiction, power and authority. The Appellant representative clearly stated in their representation dated 18.03.2005 and 11.02.2009 that the Appellant had engaged on average of only 13 employees. But the Respondent inspection team had prepared fabricated list of employees. The Respondent failed to summon the disputed employees during the inquiry and the Respondent passed a non-speaking order. Therefore, it is requested to set aside /

quash the impugned order and direct the Respondent not to proceed with further action or further recovery.

3. In reply, the Respondent filed its counter statement stating that during the visit of Enforcement Officers of Central Inspection Squad on 19.04.2004, they found in SIPCOT Industrial Area branch of the Appellant at Sriperumbudur, Chennai that 108 employees were working in the said unit and these employees were not enrolled to the PF and benefits are not extended to them in violation of statutory provisions and they have prepared the list of employees also. It is also submitted that Respondent is having concrete documentary evidence to prove that Petitioner was employing 108 employees at the time of inspection of the Central Squad. The The learned counsel for the Respondent submitted that the enquiry was adjourned for 14 times at the request of the Appellant to enable the Respondent to produce even basic records sought by the competent authority. Due to non-production of records, the Enforcement Officer prepared the dues in respect of non-enrolled employees on the basis of the report submitted by Central Squad. Further, non-submission of crucial documents, the Respondent authority was constrained to assess the dues on the basis of authenticated records obtained by the Central Squad. Though the Appellant contested enrolment of employees stating that they have engaged only minimum number of workers required for

coverage of Sriperumbudur Unit as a separate unit, the same cannot be taken into consideration, since during inspection conducted by Central Squad found that 108 employees were engaged in the said unit. Therefore, it is submitted the Respondent authority has passed a well reasoned order and thus, the appeal filed by the Appellant is liable to be dismissed.

3. Heard both the learned Counsels appearing on either side and perused the records.

4. Although, it is legally not permissible to mention case law in the memorandum of appeal following case laws are cited by the Appellant:-

a. Ram Khilawan Kesavram Kashyap Vs. RPFC (1985) I LLN 379 (MP DB) by mentioning that 7A should be a judicial and not an administrative order. This Tribunal has to respect this observation that section 7a order must be passed judiciously.

b. Swamy G.V.V Vs RPFC (1987) LIC (AP DB). In this case, it was held that the authority should decide initially the question of liability of the concerned employer and then ascertain the amount that the concerned employer is liable to pay under the Act.

c. Gujarat State Civil Supplies Corporation Ltd Vs.RPFC 1999 II LLJ 844. In this case law, it was observed that fair opportunity of hearing should be provided and reasoning and speaking order must be delivered.

d. Food Corporation of India Vs.RPFC (1990) 60 FLR 15 (SC 2J) . In this case, it was held that the Commissioner who is a statutory authority under the Act must exercise power vested in him to collect relevant evidence before determining the amount payable under the said Act.

e. During the course of arguments also, the learned counsel for the Appellant filed a case law in Abbot Healthcare Pvt. Ltd. Vs RPFC in W.P. No.7497 of 2025 dated 10.11.2025 of the Hon'ble High Court of Bombay. Brief facts in that case is that Enforcement Officer on 17.12.2020 visited the Petitioner's office and the officers of the Petitioner gave various documents to the E.O., who visited again on 08.02.2021 and requested for salary / wage register for all employees for April, 2016 to March, 2019, ledgers pertaining to salary, wages, bonus, staff welfare expenses, advertising, publicity, sales promotion, freight & forwarding charges and Miscellaneous expenses for the said period which was disputed by the Petitioner. On 01.04.2021, the Respondent initiated proceedings u/s.7A of the Act and during the enquiry, order was passed on Miscellaneous Application Nos.6 & 7, but the Petitioner was not acquainted with the facts passed by the Respondent. Copy of the order was provided on 20.05.2025 and the Petitioner sought adjournment to peruse and challenge the same. His request was denied and the Respondent disposed off the proceedings on that very day itself holding that Petitioner has to pay Rs.6,04,67,266/-.

f. The Hon'ble High Court of Bombay in W.P.No.7497 of 2025 vide its dated 10.11.2025 quashed the impugned orders and direction was given to determine the liability of the Petitioner afresh, after providing due opportunity of hearing.

5. The main argument of the learned counsel for the Appellant is that opportunity to cross examine the squad team of Enforcement Officers was not provided to the Appellant and as per the case of M/s.Abbot Healthcare Pvt. Ltd,, the assessment order passed in the present case on hand is to be quashed.

6. On perusal of enquiry report, it appears that the E.O. has considered the following evidences:-

a) Salary register & attendance register from the date of starting of the unit;
b) Certified copy of profit & loss account;
c) Evidence in token of set up of the unit or any other license issued by competent authority in proof of date of set up of the unit.
d) Copy of 1st invoice or bill in token of starting of the unit.

It was also concluded that the employer has acknowledged the receipt of summons and the Enquiry Officer has provided the following dates of hearing to the Appellant:-

18.07.2007	23.01.2008	13.02.2008
04.03.2008	16.04.2008	24.06.2008
29.07.2008	02.09.2008	23.09.2008
20.10.2008	20.11.2008	17.12.2008
15.01.2009	11.02.2009	

7. The Manager of the establishment has produced the records during the enquiry. The Officers of the Appellant failed to appear before the Respondent on so many days. Although, the learned counsel appeared on behalf of the Appellant raised objection regarding non-enrollment of employees at Sriperumbudur unit in Tamil Nadu, he specifically alleged that the Central Squad has prepared fabricated list of employees and without any verification, the inspection team has forcibly compelled the Manager of the Appellant to sign the list. He further submits that the Appellant never engaged more than 100 employees at any point of time and only 13 employees were engaged in the unit. These objections were dealt with by the Enquiry Officer and considered that the employer has not submitted concerned reports for verification. Further, the employer has also failed to prove this fact by showing that it has filed application before the Respondent during the enquiry to cross examine squad of Enforcement Officers who inspected

the Appellant unit. Therefore, the facts of the present case on hand and the case decided by the Hon'ble High Court of Bombay are not similar. In the case of M/s. Abbot Healthcare Pvt.Ltd., the Petitioner was not aware of order passed by the Enquiry Officer on the Miscellaneous Application No.6 & 7 and they sought adjournment to peruse and challenge the same, but the Respondent decided the matter on the same day.

8. The learned counsel further argued that signature of the Manager was obtained by the Respondent authorities under threat. But, this allegation was not raised by the Appellant at the very first instance. The Respondent considered the report prepared by the Enforcement Officers Squad Team in the absence of any rebuttal from the Appellant.

9. In light of the above said judgement, it can be concluded that the report of the Enforcement Officer plays evidentiary roll but, it is not automatically final or binding, but if the employer fails to rebut the report, then EPF authorities may accept it and rely on it and may determine the dues of coverage of liability.

10. It is also established that opportunity of being heard was provided to the employer and the case was adjourned so many times and the employer's representative was not present

on the same dates at the time of hearing. The list of employees was prepared by the Enforcement Officer at the work place and it was countersigned by the Manager in-charge of the Appellant. Although, the Appellant stated that signature was obtained by force or under threat, but no affidavit of the concerned person was filed which may establish the fact of threat. Therefore, it is nothing but an afterthought ground of the Appellant.

11. Presumption under section 114 of the Indian Evidence Act, 1872, corresponding to Section 119 of the Bharatiya Sakshya Adhiniyam, 2023. Although, the Evidence Act is not strictly applicable during the enquiry proceedings under u/s.7A of the EPF & Miscellaneous Provisions Act, 1952, and the appeal is filed against the order, but, generally principles provided u/s.114 of the Evidence Act may be applied, which suggests that Court may presume that the official act (114F) has been properly performed. Thus, the report prepared by the Enforcement Officers Squad is presumed that it was properly prepared because no rebuttal of the Appellant is available on record.

12. As per discussion above, the order passed by the Respondent authority is valid and legal and thus no ground requires to interfere with the impugned order.

ORDER

The appeal filed by Appellant deserves dismissal. The appeal is dismissed accordingly.

Place : EARNAKULAM
Date : 20.04.2026

(SUSHIL KUMAR-II)
PRESIDING OFFICER