BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-2, MUMBAI

APPEAL NO. CGIT- 2 / EPFA /179/2024

M/s. Sandip Polytechnic. - Appellant

V/s.

The Assistant Provident Fund Commissioner,

EPFO, Nashik. - Respondent

ORDER
(Delivered on 06-05-2025)

Read application for refund and De-freeze the bank account filed by the applicant. Perused the exhaustive reply filed on behalf of the opponent

I have heard Mr. Chheda representative for the applicant and Mrs. Sawant advocate for the opponent.

Undisputedly the applicant has challenged the legality of order dated 30.10.2024 passed u/s. 14-B & 7-Q of the EPF Act by the opponent alongwith application for stay and the same is pending. During pendency of appeal as well as stay application the opponent issued the recovery order u/s. 8-F of the EPF Act thereby recovered some amount from the bank account and kept lien on the bank account of the applicant.

It is contended on behalf of the applicant that, even after having knowledge of appeal, the opponent issued order u/s. 8-F of the EPF Act on 20.01.2025 to the banker of the applicant, without following due process of law and on the basis of that order, the Bank remitted the amount of Rs.23,72,000/- and marked lien on account for an amount of Rs.29,41,310/-. In fact, the application for stay is pending before the Tribunal as such it is not proper for the opponent to demand payment of dues as such recovery during pendency of appeal is contrary to the provisions of law, thus the applicant prays for direction to the opponent to refund the amount recovered illegally alongwith direction to remove lien marked on the bank account of the applicant.

As against this, Mrs. Sawant learned advocate for the opponent submitted that, the order u/s. 14-B & 7-Q were passed on 30.10.2024 for an amount of Rs.35,21,833/- towards damages and Rs.17,91,477/- towards interest. Though the applicant preferred an appeal on 20.12.2024, however as there was no stay therefore recovery process was initiated that too after completing 60 days and partly recovered the amount, as such the application for refund is baseless and there is no illegality in passing the order in respect of recovery.

It is worthwhile to mention here that, the learned representative of the applicant submitted before the Tribunal that, he is not pressing the prayer for the refund of amount recovered by the opponent and accordingly put remarks on the application. In view of this, the prayer in respect of refund of amount become infructuous as not pressed.

It is pertinent to know here that, on the basis of recovery initiated by the opponent, they have recovered an amount of Rs.23,72,000/- from the bank account of the applicant and also mark/kept lien on the bank account of the applicant for further recovery. In fact, more than amount assessed in the order in respect of interest has been recovered by the opponent from the bank account of the applicant. It means substantial amount has been recovered and as the applicant is not pressing for the prayer in respect of refund of amount, then excess amount recovered from the applicant can be considered towards amount assessed in respect of damages.

In such circumstances, marking/keeping lien on the bank account of the applicant is certainly unjustified. So without going to the legality or illegality of the order passed u/s. 8-F of the EPF Act, more particularly in the light of the substantial amount recovered from the applicant, I am directing the opponent to withdraw the lien from the bank account of the applicant.

In the result, the applications are allowed. The opponent is hereby directed to withdraw/remove lien on the bank account of the applicant.

Sd/-

Date: 06-05-2025

(Shrikant K. Deshpande)
Presiding Officer
CGIT -2, Mumbai