

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-2, MUMBAI**

**APPEAL NO. CGIT- 2 / EPFA 82 /2024**

M/s. K. K. Enterprises

(Closed Establishment)

- Appellant

V/s.

The Regional Provident Fund Commissioner-II (Compliance)

EPFO, Bandra (E).

- Respondent

**ORDER**

(Delivered on 10-03-2025)

Read application for condonation of delay in filing the appeal filed by the appellant/applicant. Perused the reply submitted by the respondent/opponent.

Heard both the parties.

It reveals that, M/s. K. K. Enterprises/appellant-applicant has challenged the legality of order dated 30.01.2024, in the present appeal, which has been filed on 10.06.2024.

It is contended on behalf of the applicant that, he never received the order nor he was aware about the impugned order passed u/s. 7-A of the EPF Act. He came to know about the order only after receipt of notice of demand to the defaulter dated 18.04.2024. As the proprietor was not keeping well due to his old age, could not visit P.F. Office and he visited the office on 10.05.2024, made enquiry about the order, then only he came to know about the recovery proceedings and the copy of order was handed over on 10.05.2024 and only after receipt of order, the present appeal has been filed within 60 days from the date of

receipt of order as such there is only precautionary delay in filing an appeal. He has a good case on merit, thus prays for condonation of delay in filing an appeal.

As against this, it is submitted on behalf of the opponent that, the original copy of impugned order which was sent to the applicant is not found to have been received by the applicant him however the soft copy was sent through E-mail on 31.01.2024 and the copy of order was physically served to the applicant by the Area Enforcement Officer on 10.05.2024. The service of soft copy through E-mail is valid service, therefore the appeal has filed beyond the period of limitation and ultimately requested for rejection of appeal as time barred.

Undisputedly, the enquiry proceeding u/s. 7-A of the EPF Act, which was initiated against the applicant, was continued from 22.12.2016 and concluded on 02.01.2024. The applicant came up with the specific case that, he had no knowledge about the order passed by the Authority, as the order was not communicated to him and the copy of order was served to him only on 10.05.2024. Though the opponent denied the fact that, the applicant had no knowledge about the passing of order however the opponent nowhere stated in the reply that, by which mode the copy of order was sent to the applicant. Moreover, the opponent fairly admitted in Affidavit in reply that, the copy of order was physically served to the applicant by the Area Enforcement Officer on 10.05.2024. It goes to show that, the hard copy was supply to the applicant for the first time, when proprietor of the applicant company approached to the opponent on 10.05.2024.

An attempt has been made on behalf of the opponent that, the applicant had knowledge about the order as the soft copy of order was sent to the applicant on E-mail however the counsel for the applicant submitted that, the service of notice of soft copy by E-mail cannot be a valid service. He put his reliance on the decision of **Supreme Court in Writ Petition (s) (Civil) No. (s) 611/2020 Hardev Ram Dhaka & Ors. V/s. Union of India & Ors.**

It is clear from the order passed by the Supreme Court that, the notice through E-mail which is not valid service as per rules. The matter before Hon'ble Lordships as per office report, the notice was served upon the respondent No. 2 & 3 through E-mail and as the E-mail is not a valid service as per rules, the Court granted time to the petitioner to take fresh steps. In view of this, it can be safely said that notice by E-mail is not valid notice.

Even otherwise also, I may mention here that, the opponent has not placed anything on record about the service of soft copy to the applicant by E-mail, though it is not a valid service and hard copy of order was served to the applicant on 10.05.2024. Admittedly, the present appeal is filed on 10.06.2024 i.e., just within 30 days from the date of receipt of hard copy of order therefore the applicant is certainly entitled for condonation of delay in filing an appeal.

In the result, the application is allowed. The delay in filing the appeal is condoned.

Sd/-

Date: 10-03-2025

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

