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

सत्यमेव जयते Present: Shri.V.Vijaya Kumar, B.Sc., LLM, Presiding Officer.

(Friday the 6th day of May, 2022)

Appeal No.45/2020

Appellant	:	M/s Josco Footwear Company 8/50, Moonalingal, Kozhikode – 673 032.
Respondent	:	The Assistant PF Commissioner, EPFO, Sub Regional Office, P.B.No.1806, Eranhipalam Kozhikode – 673 006.

By Adv.(Dr)Abraham P.Meachinkara

This appeal came up for hearing on 04/05/2022 and this Industrial Tribunal cum Labour Court issued the following order on 06/05/2022.

O R D E R

Present appeal is filed from Order No. KR / KKD/ 11996/7A /Enf-1(1)/2019-20/ 5689 dt. 03/02/2020 assessing dues U/s 7A of EPF & MP Act, 1952 (hereinafter referred to as 'the

Act') for the period from 07/2018 to 09/2019. The total dues assessed is Rs.10,07,221/-.

2. The appellant is a partnership firm doing business manufacture and sale of footwear products. The appellant is coved under the provisions of the Act. In the early stage of business the appellant was doing very well and later due to various reasons the appellant could not run the establishment in a profitable manner. The appellant is not in a position even to repay the loans taken from financial institutions. The competition in the market and the change in export/import policy of government has inversely affected the profit of the appellant establishment .The appellant is not in a position to wind up the business in view of the financial commitments. The appellant establishment is not working with effect from 26/04/2019. The balance sheet for the years 2016-17, 2017-18, 2018-19 could show the appellant establishment is having a huge accumulated loss. The impugned order U/s 7A is issued on the basis of the report of the Enforcement Officer.

3. The respondent filed counter denying the above allegations. The appellant is an establishment covered under the

provisions of the Act. The appellant failed to remit the contribution in time. An enquiry U/s 7A of the Act was initiated. But he did not attend the enquiry. Accordingly the respondent issued the impugned order.

4. The learned Counsel for the appellant during the course of hearing submitted that the appellant could not remit the contribution in view of the financial difficulties of the appellant establishment. He also produced the financial statements to substantiate their claim of fin difficulties. According to the learned Counsel for the respondent financial difficulties cannot be an excuse for non-remittance of provident fund contribution. It is particularly so with regard to the employees' share of the contribution deducted from the salary of the employees. Further pointed out that the Balance Sheet now produced by the appellant would clearly show that the wages of the employees and other statutory dues such as bonus was paid by the appellant during the relevant point of time.

5. It is seen that the default period for which assessment is done is from 07/2018 to 09/2019 as submitted by the Counsel for

the appellant. The appellant establishment has remitted part of the contributions as per the impugned order. It is clear from the pleadings in the appeal that the appellant is only trying to buy some time to remit the contribution and there is no serious dispute regarding the assessment made. As already pointed out the assessment is made on regular contribution and there is no dispute regarding the quantum of dues assessed as per the impugned order.

6. Considering the facts circumstances and evidence in this appeal, I am not inclined to interfere with the impugned order.

Hence the appeal is dismissed.

Sd/-
(V.VijayaKumar)
Presiding Officer