BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI

Misc. Application for condonation of delay in D-1/27/2023
M/s Charan Agencies vs. APFC/RPFC, Delhi North.

Present: Sh. Gautam Panjwani, Ld. Counsel for the Appellant.
Sh. Ashutosh Pandey, proxy counsel for the Respondent.

ORAL

Order dated-13.08.2025

Before proceeding further for disposal of this application for condonation of delay, it is important to mention here that the tribunal earlier presided by Hon'ble Justice Vikas Kunwar Shrivastav had reserved the order on 11.03.2024. After receiving the charge of this tribunal, this tribunal had ordered to release this file from the reserved list and the matter is listed today for arguments on the misc. application filed for condonation of delay.

Appellant has again pressed his application for condonation of delay stating that the appeal has been filed well within time. He has been served with the copy of impugned order passed under section **7A of the EPF & MP Act, 1952 (hereinafter referred as 'the Act')** dated 16.02.2023 only on 01.06.2023. He has come to know of the present order only when the notice of demand vide letter dated 11.05.2023 was received by the appellant on 17.05.2023. Even at that time, impugned order was not served upon the respondent. He was constrained to send a letter dated 22.05.2023 and 29.05.2023 along with emails dated 24.05.2023 and 26.05.2023 requesting the commissioner to provide him the copy of the order, but no copy of the order has been given. He has preferred a review application on 06.06.2023 by visiting personally and the respondent dismissed the said application for review vide order dated 13.06.2023. As such he submitted that delay, if any, be condoned because limitation be counted from the date of knowledge of the order which in the present case is 01.06.2023 and this appeal was filed on 10.07.2023 well within the period of limitation.

Respondent counsel has rebutted the submission by filing a written reply. He has submitted that the appellant was well aware of the enquiry. Proceedings were adjourned several times to provide the appellant, the opportunity of being heard. Several notices have been issued to enforce the attendance of the appellant. Even bailable warrants were issued to enforce the attendance of the appellant but the appellant failed to consider the gravity and seriousness of the case. Respondent further stated that the copy of the order passed u/s 7 A of the Act dated 16.02.2023 was duly emailed to id – **kashishvij80@gmail.com** on 10.03.2023. It was also dispatched by speed post and also uploaded on the e-court module of EPFO website. Thus, the appellant was duly aware about the enquiry and impugned order dated 16.02.2023. He submits that the assertion of the appellant that he has come to the knowledge about the order on 01.06.20233 is not correct and the appeal is time barred.

Appellant has also filed the rejoinder to this application wherein he denied the duly mailing of the order dated 16.02.2023. He further continued that **Sh. Gautam Panjwani** was the authorised representative of the appellant and no copy of the order was sent to him. He also submitted that Ms. Kashish Vij was no longer associated to Gautam Panjwani.

Before proceeding further, it is important to mention the provision of Rule 7 (2) of the Rules which are as under:-

> ***7.Fee, time for filing appeal, deposit of amount due on filing appeal.—***
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> ***(1) Every appeal filed with the Registrar shall be accompanied by a fee of Rupees five hundred to be remitted in the form of Crossed Demand Draft on a nationalized bank in favour of the Registrar of the Tribunal and payable at the main branch of that Bank at the station where the seat of the said Tribunal situate.***
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> ***(2) Any person aggrieved by a notification issued by the Central Government or an order passed by the Central Government or any other authority under the Act, may within 60 days from the date of issue of the notification/order, prefer an appeal to the Tribunal.***
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> ***Provided that the Tribunal may if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the prescribed period, extend the said period by a further period of 60 days.***
>
> ***Provided further that no appeal by the employer shall be entertained by the Tribunal unless he has deposited with the***

Tribunal a Demand Draft payable in the Fund and bearing 75% of the amount due from him as determined under Section 7-A.

Provided also that the Tribunal may for reasons to be recorded in writing, waive or reduce the amount to be deposited under Section 7-O.

I have heard the arguments at bar and perused the records. In the present case, the impugned order has allegedly been passed on 16.02.2023. No date was mentioned in the above said order being allegedly forwarded on 09.03.2023. In the cover letter the date 16.02.2023 was mentioned on which date it has been passed. Respondent has no explanation as to why the order has been allegedly dispatched after 21 days of passing it.

The further contention of the respondent is that emailed to 10.03.2023 to one Ms. Kashish Vij, who had given her email id while attending the enquiry on 15.11.2021. Respondent has placed on record the print out of dispatch register for postal proof wherein the dispatch has been shown to M/s. Charan Agency and it was collected by some UDC, however, whether it was dispatched or not, no document to that effect has been placed on record. The better course would be that the receipt of the postal dispatch should have been affixed and placed on record so that to end the issue of delivery by India post. But the respondent has always, as usual not placed the receipt issued by postal department showing the dispatch. So the respondent is directed to keep the receipt of the registry in the concerned file for proving the fact that it was actually dispatched. The Bar code number placed on record does not establish that in-fact it has been dispatched and delivered. Bar code can be given by the postal department in advance to any establishment who use to dispatch various letters in a day. Even the respondent has not been able to show that what is the registered email of the appellant establishment and whether the impugned order was sent on it or not.

Further, the appellant establishment has moved an application for review of the order passed under section 7-A of the Act. That application was dismissed vide order dated 13.06.2023 observing that it was filed beyond the period of 45 days which is prescribed under the Act. However, the respondent has not given any reasoning as to when the 45 days was expired from the date of knowledge of the order and when it was communicated. Before dimissing the application on the ground that it was time barred, one must have to give the reason for its decision, which is not existed in the present case.

Therefore, in the present circumstances, this tribunal has no option other than to believe that the impugned order was received by the appellant establishment on 01.06.2023. The application filed by the appellant for condonation of delay is allowed. Put up the matter on 23.09.2025 for consideration of the other application filed by the appellant u/s 7O of the Act for waiver of the pre-deposit. In the meanwhile, interim order to continue till next date of hearing.

Sd/-

(Atul Kumar Garg)
Presiding Officer