# BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI

**Appeal no. D-2/45/2024**

**M/s. Rishi Vastra Vyapar Pvt. Ltd.** ….Appellant

Through:- Sh. Prakash Kumar, Ld. Counsel for the appellant.

Vs.

**APFC/RPFC, Gurugram East** …..Respondent

Through:- Sh. Chakradhar Panda, Ld. Counsel and Sh. Ved Prakash, AR for the respondent.

**<u>Order Dated:- 03.12.2025</u>**

This order shall dispose of an application filed by the appellant under rule 07 (2) of the Employees' Provident Fund Appellate Tribunal (Procedure) Rules 1997, read with section 5 of the limitation Act, 1963, seeking condonation of delay in filing the appeal. The appellant, in its application, submitted that it had received the impugned order dated **19.05.2023** passed by the respondent under section 7-A of the **Employees Provident Fund and Misc. Provisions Act, 1952 (Hereinafter referred to as 'the Act'),** assessing Rs. 13,71,844/- (Rs. Thirteen Lakhs Seventy One Thousand and Eight Hundred Forty-four only), for the period from 08/2017 to 12/2018, only on 13.12.2024. Prior to 13.12.2024, it was under the impression that the enquiry under section 7-A of the Act was still pending.

The Ld. Counsel for the appellant stated that if the period of limitation is calculated from 13.12.2024, then the period would expire on 12.02.2025, and the appeal has been filed on 20.12.2024, which is well within limitation. He submitted that the application has been filed merely as an abundant precaution.

The respondent filed a reply to the application, stating that the present application is a blatant misuse of process of law, and the appellant has attempted to mislead the Tribunal by omitting and concealing material facts which is nothing but a penal offense. It was further submitted that the order dated 19.05.2023 passed under section 7-A of the Act by the assessing authority, EPFO, Gurugram East, was served through e-mail on 23.05.2023. Therefore, the appeal is time-barred.

On merits, the respondent denied that the appellant received the show-cause notice dated 06.11.2024 on 12.12.2024. It further denied that the appellant contacted the respondent on 13.12.2024 seeking clarification and submitted that the appellant had knowledge of the order much prior to that date. In support of its contention, the respondent enclosed a copy of the e-mail sent to the appellant on 23.05.2023 and a copy of the despatch register mentioning the appellant's name at Sr. 170 and 171.

I have heard the arguments presented by both parties and gone through the record. Before proceeding further, Rule 07 (2) of Employees' Provident Fund Appellate Tribunal (Procedure) Rules, 1997 reads as under:

> *(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, **<u>may within 60 days from the date of issue of the notification/order, prefer an appeal to the Tribunal.</u>** Provided that the Tribunal may if it is satisfied that the appellant was **<u>prevented by sufficient cause from preferring the appeal within the prescribed period, extend the said period by a further period of 60 days.</u>***
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> *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.*

The entire argument of the Ld. Counsel for the appellant is that the appellant came to know about the impugned order only on 13.12.2024 when it received the show-cause notice dated 06.11.2024. After receiving the said notice, the appellant enquired about the reason for suddenly issuing them the said show-cause notice, obtained a photocopy of the said order, and filed the present appeal on 20.12.2024.

Whereas, the respondents' case rests upon the assertion that the order had been sent both by e-mail and by registered post on 23.05.2023 itself.

This Tribunal, at the first hearing, had granted interim stay on the execution of the impugned order, and had summoned the Trial Court Record and relevant registers. As per the record maintained by the respondent, the matter was reserved for orders on 02.05.2023, and the order was passed on 19.05.2023.

This Tribunal, in several orders, had directed the respondent to list the matter in the cause-list on the date of pronouncement, but the respondent failed to take the necessary steps. So far so postal communication is concerned, no postal receipt has been filed by the respondent to buttress delivery of the order to the appellant. Moreover, upon perusal of the impugned order, it reflects that no postal address had been updated since the establishment (Rishi Vastra Vyapar Pvt. Ltd.) was sold. So question that arises is where was the order sent when no address of the appellant is found on record?

Even the Trial Court Record produced herein reflects that a PUC was drawn on 02.02.2024 stating that a letter had been received from M/s. Rishi Vastra Vyapar Pvt. Ltd. bearing PF code no. GNGGN/1671055 stating that the amount assessed during the 7-A enquiry for the period 08/2017 to 12/2018 was wrong. The PUC had also been replied. The question that arises is if the order had been served upon the appellant, then there was no necessity for issuing or recording the PUC.

Considering the above facts on record, and assuming that the impugned order came to the knowledge of the appellant only on 13.12.2024, and the appeal was filed on 20.12.2024, the appeal is within limitation as prescribed Employees’ Provident Fund Appellate Tribunal (Procedure) Rules, 1997. Accordingly, the application stands allowed, and the appeal is found to be within limitation.

Sd/-

Atul Kumar Garg
(Presiding Officer)