BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI

Appeal no. D-1/35/2025

M/s. Mount Olivet Senior Secondary School ….Appellant

Through:- Sh. Rajiv Arora, Ld. Counsel for the appellant.

Vs.

APFC, Delhi (North) …..Respondent

Through:- Sh. K.K. Jha, Ld. Counsel for the respondent.

<u>Order Dated:- 10.12.2025</u>

The Ld. Counsel for the appellant has pressed his application under rule 21 of the Tribunal Procedure Rules (1997), whereby he has made prayer that entire amount under appeal, recovered by the respondent from the appellant' bank account be refunded, as the same was recovered in utter violation of law. It has been submitted that the appellant had a statutory period of sixty days to file the appeal; however, even before the expiry of the said period, the amount was recovered.

The Ld. Counsel for the respondent had sought time to file a reply. However, upon perusal of the record, it appears that the time had already been granted to the Ld. Counsel to file the reply up to today. Instead of filing the reply, the respondent sought another two weeks' time. On 26.11.2025, the Ld. Counsel for the respondent submitted that he was in the process of filing a writ petition assailing the order dated 14.10.2025. On being enquired today, he stated he had received instructions to file a writ petition, however, the same has not been filed till date. It is a matter of record that the order had been passed on 14.10.2025 in presence of both parties. It is also a matter of fact that the aforesaid application had been filed on 08.11.2025 by the appellant.

Certain facts are admitted in this appeal. The appeal has been filed assailing the order dated 27.05.2024 passed by the APFC, Regional

Office, Delhi (North). This Tribunal found the appeal to be within limitation, as the e-mail had been sent to the appellant on 24.04.2025, without any request from the appellant. The plea of sending the order through post was rejected by this Tribunal, considering that the e-mail didn't mention that the order had been dispatched through post. The bank account of the appellant was attached through a notice dated 29.05.2025, and the entire amount was recovered on 13.06.2025, much before the expiry of statutory period of 60 days.

It is a settled principle of law that during the pendency of an appeal, coercive action cannot be taken by the respondent for recovery of the assessed amount, because if that is allowed, the very purpose of filing the appeal would become infructuous. Even instructions were issued by the department itself to its officers not to take coercive action before the expiry of the period of appeal, in view of the judgment delivered by the Hon'ble High Court of Bombay in *Bhiwandi Nizampur Municipal Corporation vs. the RPFC, Thane* (W.P. no. 7814/2022). The SLP filed by the respondent (Diary no. 37088/2022) against the said judgment was also dismissed in *limine* by the Hon'ble Supreme Court.

Considering the facts on record, the amount recovered by the respondent in pursuance of the recovery order is directed to be refunded to the appellant within a week from the date of this order. The application stands disposed of accordingly. A copy of this order be sent to counsels for both parties via e-mail.

Sd/-

Atul Kumar Garg
(Presiding Officer)