**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, No. 1/EPFAT DELHI**

**D-1/37/2025**

**M/s Deepali India Enterprises vs. APFC/RPFC Delhi, East.**

Present: Sh. Prakash Kumar, Ld. Counsel for the appellant.
Sh. Chakradhar Panda, Ld. Counsel alongwith Sunil Ranjan, AR for the respondent.

**Order dated-14.11.2025**

**ORAL:**

1. Counsel for the respondent has filed replies to the application for condonation of delay, for seeking waiver on pre-deposit amount, and for interim stay, opposing the prayers. Copies of the same have been furnished to the appellant's counsel.

2. Appellant has pressed its application for condonation of delay. Appellant's contention is that ex-parte order dated 24.01.2025 passed by the RPFC-II, RO, Delhi (East) **under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the Act")** was received to him only on 30.07.2025. As such, appeal has been filed within the limitation, however, for abundant caution, he has filed this application.

3. It is his submission that he was shocked to receive a call from the department on 16.07.2025 wherein it was informed about issuance of recovery proceedings directing the appellant to pay Rs. 5,18,366/- immediately. Hence, he prayed that his application for condonation be allowed.

4. Reply has been filed by the respondent opposing the prayer and stating that the application filed by the appellant is a blatant abuse of process of law and the appellant has tried to mislead this Hon'ble Tribunal by omitting as well as committing/concealing something which is nothing but a penal offence. It is submitted that appellant was well aware of the fact that inquiry is being conducted in virtual mode and every daily order was being uploaded on E-proceeding portal of EPFO. As per proceeding dated 24.12.2024 Authorised Representative of the establishment made submission before the Assessing Officer that:

> *"All available documents has already been submitted so order u/s 7A may be passed on the basis of available records."*

5. This order was uploaded on the official E-proceeding portal simultaneously on the day of pronouncement of the impugned order. He submitted that appeal be dismissed with cost.

6. I have heard the arguments at bar and perused the record. Before proceeding further, provision of **under Rule 7(2) read with Rule 21 of the Tribunal (Procedure) Rules, 1997** are required to be reproduced herein:

> *(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.** 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.*

***21. Orders and directions in certain cases.***—*The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.*

7. From the perusal of the above rule, it appears that an appellant aggrieved by an order passed under various sections must file the appeal before this Tribunal within sixty days. Further, the Tribunal is empowered to condone a delay for an additional sixty days, if the appellant is able to demonstrate sufficient reason that prevented him from filing the appeal within the prescribed period.

8. It is a matter of record that this is the second round of litigation. The earlier one was resulted into remanded back of the case by the Ld. Predecessor of this Tribunal for fresh inquiry after due opportunity was given to the appellant to set up his defense. In the earlier matter, the appeal was filed against the order dated 27.03.2018 wherein dues were assessed to the tune of Rs. 3,58,866/-. However, at present the said dues have been enhanced.

9. On perusal of the records as well as the documents annexed along with the reply disclose the facts that there is no update after 09.01.2025 in the portal maintained by the respondent department. Copy of the last order sheet reflects that the case was adjourned for 10.01.2025. However, no record has been produced, what was happened on 10.01.2025. Straightway, the order was passed on 24.01.2025 without informing the appellant

establishment. This Tribunal has, on several occasions, passed the direction that when the matter is reserved for orders, date of pronouncement of order shall be intimated to the appellant so that he is aware of the consequences. However, this has not been done in the present case. The practice of reserving the case for order is primarily meant to give the leverage to the Tribunal for thinking and going through the law, which takes some time, otherwise the date has been given ordinarily by the Courts/Tribunals to the party for pronouncement of the order. Therefore, keeping the practice of reserving the order meant that it should be pronounced by giving prior intimation to the concerned parties.

10. Transparency is the hallmark of any judicial system. Keeping a party in the dark amounts to depriving it of its rights to seek statutory remedy that has occurred herein. Moreover, not having any order sheet dated 10.01.2025, reflects the veil of secrecy which is not allowed. Even, the department has not maintained any receipt of the registered post, by which the order has been delivered to the appellant or he has any knowledge.

11. Therefore, it is assumed that impugned order has come to the knowledge of the appellant only on 30.07.2025. Therefore, appeal is found to be within the limitation. As such, the application stands disposed of.

12. Now, come to the application filed by the appellant **under Section 7-O of the Act.** So far so, the application under Section 7-O is concerned, appellant has made prayer that the amount mentioned in the order be waived. Rather than to hear his point of argument, respondent authority has assessed the amount more than what has been assessed earlier, when the matter is remanded back.

13. Appellant has stated that it was a very small entity of man power supply work and voluntarily taken PF Code under the Act because it was mandatory for filing tender applications in any government organization. No work order was issued in favour of the firm, and consequently, it was closed

and he had requested the EPFO vide letter dated 11.12.2004 for closure of the EPF Code. Due to family problem he stopped working at his father's STD booth, he again started his man power supply establishment on 08.02.2011. The entire exercise has been done on the basis of the complaint filed by the labour union alleging that the appellant has not deposited the EPF of its labourers. These labourers have no problem with the appellant therefore they gave affidavits in this regard, however, these affidavits were not considered by the respondent.

14. On the other hand, respondent has filed the reply, opposing the prayer stating that appellant is required to deposit at least 75% of the amount due from him as determined by the competent authority.

15. I have heard the arguments at par and perused the record. Before proceeding further provision of Section 7-O of the Act is required to be reproduced herein:

> ***7-O. Deposit of amount due, on filing appeal.***—*No appeal by the employer* ***shall be entertained*** *by a Tribunal* ***unless he has deposited with it seventy-five per cent. of the amount due from him as determined by an officer referred to in section 7A****:*
> *Provided that the Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this section*

16. From the perusal of the above said section, it appears that before entertaining the appeal, appellant is required to deposit the 75% of the assessed amount under section 7-A. At the same time, a provision has been made whereby the Tribunal has been given wide discretion to reduce or waive the pre-deposit amount.

17. Considering the facts that earlier order was in respect of the assessment of the amount of Rs. 3,58,866/- and later order, the amount was

enhanced. Respondent has not given any mandate to increase the amount, rather than, he was asked to take the defense of the establishment to consider.

18. In the entire circumstances, and considering the wide discretion vested in this Tribunal to reduce or waive the pre-deposit amount, the application under Section 7-O of the Act stands allowed, without any condition of pre-deposit. A copy of this order is sent to the Ld. CPFC to take necessary action against the erring Officers and an action-taken report shall be apprised to this Tribunal within three months.

Let this matter be listed in the category of final argument on 12.02.2026. In the meanwhile, respondent is directed to file the reply of the appeal within four weeks from today, with direction to supply the same to the appellant. Thereafter, the appellant is directed to file the rejoinder, if any, within next four weeks, with direction to supply the same to the respondent.

(Presiding Officer)