

**BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, ROUSE AVENUE,
DISTRICT COURT COMPLEX, DELHI.**

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

ATA No. D-1/17/2022

M/s. Seasons Furnishings Ltd.

Appellant

VS.

RPFC, Delhi (East)

Respondent

ORDER DATED :-04/05/2022

Present:- Shri Kunal Arora, Ld. Counsel for the appellant.
Shri Narender Kumar Singh, Ld. Counsel for the Respondent.

The appeal challenges two separate orders dated 31/12/2021 passed by the RPFC Delhi East u/s 14B and 7Q of the EPF&MP Act communicated on 05/01/2022, wherein the appellant has been directed to deposit Rs. 5,85,778/- and Rs. 2,81,171/- as damage and interest respectively for delayed remittance of EPF dues of its employees for the period 10/05/2018 to 28/02/2020.

Notice being served on the respondent, learned counsel for the respondent appeared and participated in the hearing without filing his written objection to the prayer for grant of stay on the execution of the impugned order.

Perusal of the record and office note of the registry reveal that the impugned orders were communicated to the establishment on 05/01/2022 and the appeal was filed on 21/03/2022, i.e within the period of limitation. There being no other defect pointed out by the registry the appeal is admitted. In the appeal, prayer has been made for an interim order of stay on the execution of the impugned order pending disposal of the appeal.

The appellant has stated that the impugned order is illegal and arbitrary since the commissioner had failed to appreciate the mitigating circumstances pointed out during the inquiry by the establishment. It has also been stated that the appellant establishment is a limited company having its registered office at Okhla Industrial Area New Delhi. The inquiry u/s 14B and 7Q was initiated vide summons issued through email dated 08.03.2021. Thereafter no notice or summon was ever received from the respondent. On 01/07/2021 one email was received from APFC with a direction to appear before the inquiry officer on 12/07/2021. Though the representative of the establishment appeared, no proceeding was conducted. The representative could not even know the next date of

adjournment. Thereafter no notice was ever received from the department in respect of hearing and surprisingly he received the impugned order dated 13.12.2021 passed by the RPFC dispatch on 05/01/2022 and received on 13/01/2022. In the said order the commissioner made a wrong observation that none appeared on behalf of the establishment on 11/07/2021 and from 17/03/2021 to 29/11/2021. Thereby the appellant submitted that no effective hearing was conducted giving the establishment a proper opportunity for setting up the defence. The commissioner in an arbitrary manner passed the order which meets the character of an *exparte* order. Thereby the appellant has stated that the impugned order which is not based upon any good reasoning is illegal and liable to be set aside. Unless execution of the same pending disposal of the appeal would be stayed serious prejudice shall be caused to the appellant who has a strong case to argue. He also submitted that the commissioner without assigning damage levied at the maximum rate passed the impugned order in a fancy full manner. The authority of the RPFC for levying damage u/s 14B has also been challenged. It is also pointed out that the orders though have been separately passed u/s 14B and 7Q of the Act, infact it is a composite order being passed in a common proceeding. The appellant thereby submitted that the appeal be admitted in respect of the order passed u/s 7Q of the Act and an interim order of stay be passed against the execution of both the orders.

In his reply the learned counsel for the respondent submitted that the impugned order has been passed imposing damage for delay in remittance which spans over more than two years depriving the employees of their lawful rights. He also submitted that any order of stay on the execution of the order shall be prejudicial to the employees and defeat the purpose of the legislation. Arguing that the orders being separately passed cannot be treated as Composite order, he submitted that the appeal cannot be admitted in respect of the 7Q order.

The reply submission made by the appellant is that the establishment should not have been saddled with the damage when no affective opportunity of hearing was granted and the order was passed in a mechanical manner without any finding on *mensrea*.

As seen from the notice copy filed along with the appeal, there was a common notice and a common proceeding was held. In the order passed u/s 14B the commissioner has given the finding on the quantification of the damage. Since, separate orders have been passed at this stage no opinion can be formed with regard to the compositeness of the proceeding. The order passed u/s 7Q of the Act no being appealable the appeal is not admitted in respect of the 7Q order.

On hearing the submission made by both the counsels on the prayer for interim stay, a decision is to be taken on the same. The factors which are required to be considered for passing the order of stay, include the period of default and the amount of damage levied in the impugned order. In the case of **Shri Krishna vs. Union of India reported in 1989LLR(104)(Delhi)** the Hon'ble High court of Delhi have held:-

“The order of the tribunal should say that the appellant has a prima facie strong case as is most likely to exonerate him from payment and still the tribunal insist on the deposit of the amount, it would amount to undue hardship.”

In this case the period of default as seen from the impugned order spreads over almost two years and the damage levied is huge. From the pleadings of the appellant and the impugned order it is evidently cleared that the opportunity of effective hearing was denied to the appellant during the inquiry.

All these aspects no doubt make out a strong arguable case for the appellant. If there would not be a stay on the execution of the impugned order passed u/s 14B of the Act, certainly that would cause undue hardship to the appellant. But at the same time it is held that the stay shall not be unconditional. Hence, it is directed that the appellant shall deposit 30% of the assessed damage, as a pre condition for grant of stay till disposal of the appeal, within 6 weeks from the date of communication of the order, failing which there would be no stay on the impugned order passed u/s 14B. The said amount shall be deposited by the appellant by way of Challan with the respondent. It is directed that there would be no stay on the execution of the order calculating interest u/s 7Q. Call the matter 05th July, 2022 for compliance of this direction. The respondent is directed not to take any coercive action against the appellant in respect of the impugned order passed u/s 14B till the next date.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-1/18/2022

M/s. SRS Engineers Appellant
Through Sh. S.P Arora & Rajiv Arora, Ld. Counsel for the Appellant

Vs.

RPFC-II, Delhi (N) Respondent
Through Sh. Manu Parashar, Ld. Counsel for the Respondent

ORDER DATED :- 04/05/2022

Detailed arguments on the admission of the appeal heard and concluded. List the matter on 14.07.2022 for pronouncement of order on the same. Meanwhile, the respondent authority is directed not to take any coercive measure for recovery of the amount as mentioned in the impugned order till next date of hearing.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-1/40/2021

M/s. Pranciscan
Through Sh. Puneet Shrivastava Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Delhi (S)
Through Sh. Rikesh Singh, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 04/05/2022

List the matter again on 10.05.2022 for reporting compliance.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-1/101/2018

M/s. Indian Oil Corporation Ltd.
Through Sh. Sanjay Kumar, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Delhi (N)
Through Sh. Manu Parashar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 04/05/2022

List the matter again on 26.05.2022 for filing rejoinder.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-1/28/2021

M/s. Ranutrol Industries Pvt. Ltd.
Through Sh.S.K Khanna, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Delhi (E)
Through Sh.Narender Kumar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 04/05/2022

Reply in this matter filed. List the matter on 06.07.2022 for filing
rejoinder.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-1/107/2019

M/s. Ex-Man Raghav Security Services Pvt. Ltd.
Through Sh. Sanjay Kumar, Ld. Counsel for the Appellant

Appellant

Vs.

CBT,RPFC, Delhi (E) & 05 Ors.
Through Sh. Narender Kumar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 04/05/2022

Reply in this matter filed. List the matter on 06.07.2022 for filing
rejoinder.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-1/37/2019

M/s. Rosmerta HSRP Ventures Pvt. Ltd.
Through Sh. Gyan Prakash, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Delhi (W)
Through Sh. Manu Parashar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 04/05/2022

List the matter again on 26.05.2022 for filing reply to the appeal.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-1/119/2019

M/s. Golden Edge Engineering Pvt. Ltd.
Through Sh. Haribansh Manav, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Delhi (S)
Through Sh.B.B Pradhan, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 04/05/2022

Today the arguments were heard on the miscellaneous application filed by the Ld. Counsel for the Appellant, u/s 151 CPC, 1908 praying;-

a) a direction to the Respondent/HDFC Bank to release/un-hold the amount from Bank account bearing Account no. 00898470000010, HDFC Bank, New Friends Colony Branch, New Delhi, in favour of the Applicant/Appellant and against Respondent.

b) Stay the Recovery Proceedings/Notice no. DSNHPDSNHP0033998000/14B/DSNHP7878/16456, dated 03.01.2020, against the applicant/appellant for deposition of the amount u/s 14B & 7Q,

The Ld. Counsel for the Respondent has submitted his written reply which shows that the direction of depositing Rs. 6,00,000/- has already been complied by the Appellant and Respondent has no objection if the orders for detachment/unholding are issued by this Tribunal.

Accordingly, considering all the facts and the written reply filed by the Ld. Counsel for the Respondent, it is ordered that there shall be no attachment on the Bank Account no. 00898470000010, HDFC Bank, New Friends Colony Branch, New Delhi henceforth. The Appellant shall have the liberty to operate the Bank account. There is also one application filed for vacation of stay by the Ld. Counsel for the Respondent. List the matter on 26.05.2022 for consideration on the stay application filed for vacation of stay.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 452(40)2014

M/s. Mother Dairy Fruit & Vegetables Pvt. Ltd.
Through Sh. Gautam Dutta. Counsel for the Appellant

Appellant

Vs.

RPFC, Delhi
Through Sh. Narender Kumar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 04/05/2022

Matter heard in part. List the matter on 04.08.2022 for
continuation of arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 652(4)2014

M/s. Delhi Telecom Services
Through None for the Appellant

Appellant

Vs.

APFC, Delhi
Through Sh. Narender Kumar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 04/05/2022

Matter heard in part. List the matter on 04.08.2022 for
continuation of arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 439(4)2015

M/s. Tuli Offset Printers Pvt. Ltd.
Through Sh. Sandeep Kumar, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Delhi
Through Sh. A.K Verma, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 04/05/2022

Matter heard in part. List the matter on 04.08.2022 for
continuation of arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-2/03/2017

M/s. Internet Global Services Pvt. Ltd.
Through Sh.Saumitra Singhal, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Gurgaon
Through Sh.B.B Pradhan, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 04/05/2022

Reply in this matter filed. List the matter on 06.07.2022 for filing
rejoinder.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-2/14/2018

M/s. UPSRTC, Noida
Through None for the Appellant

Appellant

Vs.

APFC, Noida
Through Sh. Rajesh Kumar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 04/05/2022

List the matter on 13.09.2022 for final arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-2/03/2020

M/s. Wear Well India Pvt. Ltd. Appellant
Through Sh. S.K Kahnna, Ld. Counsel for the Appellant

Vs.

APFC,Noida Respondent
Through Sh. Narender Kumar, Ld. Counsel for the Respondent

ORDER DATED :- 04/05/2022

List the matter on 06.07.2022 for filing reply to the appeal.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-2/23/2020

M/s. Antony Road Transport Solutions Pvt. Ltd.
Through None for the Appellant

Appellant

Vs.

APFC, Delhi (E)
Through Sh. S.N Mahanta, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 04/05/2022

List the matter on 06.07.2022 for filing reply to the appeal.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-1/17/2021

M/s. BSC-C & C 'JV',
Through Sh. S.K Khanna, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Gurugram(E)
Through Sh. B.B Pradhan, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 04/05/2022

List the matter on 06.07.2022 for filing reply to the appeal.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-2/33/2021

M/s. Kabir Leathers Appellant
Through Sh. Gyan Prakash, Ld. Counsel for the Appellant

Vs.

RPFC, EPFO Delhi Respondent
Through Sh. B.B Pradhan, Ld. Counsel for the Respondent

ORDER DATED :- 04/05/2022

Reply to the appeal filed. List the matter on 11.07.2022 for filing
rejoinder.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-2/08/2021

M/s. Artemis Medicare Services Ltd.
Through Sh. Rajiv Gupta, Ld. Counsel for the Appellant

Appellant

Vs.

RPFC, Gurgaon
Through Sh. Chakardhar Panda, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 04/05/2022

Reply to the appeal filed. List the matter on 06.07.2022 for filing
rejoinder, if any.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 219(16)2015

M/s. Inductis (India) Pvt. Ltd.
Through Sh.Kamal Kant Tyagi, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Gurgaon
Through Sh. Abhishek Mishra, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 04/05/2022

The Ld. Counsel for the Respondent asked for an adjournment.
Granted. List the matter on 12.09.2022 for final arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 265(14)2015

M/s. Mascot Foot Care
Through Sh. Sanjay Kumar, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Noida
Through Sh. Narender Kumar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 04/05/2022

Matter heard in part. List the matter on 12.09.2022 for
continuation of arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-2/25/2018

M/s. Polestar Public School Appellant
Through Sh.Sanjay Kumar, Ld. Counsel for the Appellant

Vs.

RPFC, Gurgaon Respondent
Through Sh. B.B Pradhan, Ld. Counsel for the Respondent

ORDER DATED :- 04/05/2022

Matter heard in part. List the matter on 12.09.2022 for
continuation of arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-2/02/2019

M/s. Brijlaxmi Paper Products Pvt. Ltd.
Through Sh. Deepanshu Baisal, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Faridabad
Through Sh.B.B Pradhan, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 04/05/2022

Due to paucity of time the matter could not be taken up. List the
matter on 12.09.2022.

Presiding Officer