

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL/EMPLOYEES PROVIDENT FUND APPELLATE
TRIBUNAL, JABALPUR

EPF Appeal No.- 28/2019

Present – P.K. Srivastava

H.J.S. (Retd.)

**M/s LNS Match Inc.,
Village – Tedesara, Rajanandgaon,
Distt. Rajnandgaon (CG)**

Appellant

Vs.

**Regional Provident Fund Commissioner,
Office of : - Employees Provident Fund Organization,
Regional Office Block D, Scheme 32,
Indira Gandhi Vyavasaik Parisar,
Pandri (CG) -**

Respondent

Shri M.K. Vyas	:	 Learned Counsel for Appellant.
Shri Abhishek Arjaria	:	Learned Counsel for Respondent.

JUDGMENT

(Passed on 23rd day of July, 2026)

The present appeal is directed against the order dated 24.09.2019, passed under Section 7-A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (in short the 'Act'). The Respondent Authority has recorded a finding in the impugned order that the Appellant Establishment has committed default in deposit of PF dues of its employees for the period 01/2006 to 07/2012, has held the Appellant Establishment liable to deposit the PF dues of its employees for the period and has assessed the amount at Rs. 20,88,391/-.

Pleadings have been exchanged. I have heard argument of Learned Counsel for the Appellant Establishment Mr. M.K. Vyas and Mr. Abhishek Arjaria, Learned Counsel for the Respondent Authority. I have gone through the record as well.

Facts connected in brief are mainly that, the Respondent Authority passed an order dated 01.10.2012, against the Appellant Establishment under Section 7-A of the Act for the same period with a finding that the Appellant Establishment is liable to deposit the PF dues of its employees for the said period i.e. from 01/2006 to 07/2012 and assessed the amount. The Appellant Establishment preferred an appeal before this Tribunal at Delhi, which was registered as ATA No. 901(19)/2012. This appeal was heard and decided by my Learned Predecessor vide his judgment and order dated 25.11.2014. My Learned Predecessor observed that the basis of the findings was report prepared by the Labour Inspector without properly identifying the employees and without considering the submissions made by the Appellant. Hence, impugned order was held not sustainable in law and appeal was allowed setting aside the impugned order. No writ petition against this order was preferred by the Respondent Authority and this order became final between the parties.

Undisputedly, the Respondent Authority issued a fresh notice to the Appellant Establishment on 07.08.2015 for the same period i.e. from 01/2006 to 07/2012. The Appellant Establishment appeared and took a plea that an order with assessment passed by the Respondent Authority for the same period has been set-aside by this Tribunal in appeal (details mentioned above), hence, barred by *res judicata* but the Respondent Authority rejected this plea on the ground that *firstly*, the Act is the beneficial legislation and *secondly*, the Respondent Authority relied on the report of the Enforcement Officer. The Respondent Authority did not consider the plea from the side of Appellant Establishment that the same matter has been heard and decided by this Tribunal earlier, hence this appeal.

Grounds of appeal are mainly that the Respondent Authority committed error in law in ignoring the fact that the same matter has been heard and decided by this Tribunal in appeal which has become final between the parties and is hence barred by principle of *res judicata*.

On perusal of record in the light of rival arguments, following issues arises for determination –

Whether, the Respondent Authority has committed error in law in ignoring the facts that the order by this Tribunal in Appeal No. ATA/901(19)/2012 between the parties will operate as res judicata?

Learned Counsel for the Appellant Establishment has submitted that an assessment order for the same period was passed by the Respondent Authority under Section 7-A of the Act on 01.10.2012, which was challenged and was set-aside by this Tribunal in the said appeal vide its order dated 15.11.2014. None of parties agitated against this order, hence this order became final between the parties. Thus, the impugned order itself with respect to the same

period between the same parties is barred by *res judicata*. The Respondent Authority committed error in law in ignoring the fact.

On the other hand, Learned Counsel for the Respondent Authority has submitted that the Act is a beneficial legislation, hence in case all the beneficiaries are supreme. He further submits that, the first order dated 01.10.2012 was set aside only on the ground that report of the Labour Inspector was considered without properly indentifying the beneficiaries. The Respondent Authority is within its rights to issue a fresh notice and conduct a fresh enquiry in this matter. After queering the irregularities, will pass the fresh order.

Section 11 of the Civil Procedure Code, 1908, defines *res judicata*, it is being reproduced as follows –

“11. *Res judicata*. —

No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court

Explanation I.-- The expression former suit shall denote a suit which has been decided prior to a suit in question whether or not it was instituted prior thereto.

Explanation II.-- For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.

Explanation III.--The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

Explanation IV.-- Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation V.-- Any relief claimed in the plaint, which is not expressly granted by the decree, shall for the purposes of this section, be deemed to have been refused.

Explanation VI.-- Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating .

Explanation VII.-- The provisions of this section shall apply to a proceeding for the execution of a decree and references in this section to any suit, issue or former suit shall be construed as references, respectively, to a proceeding

for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree.

Explanation VIII.-- An issue heard and finally decided by a Court of limited jurisdiction, competent to decide such issue, shall operate as res judicata in a subsequent suit, notwithstanding that such Court of limited jurisdiction was not competent to try such subsequent suit or the suit in which such issue has been subsequently raised.

Following paragraph of the case Makardhwaj Ram v. Jagdish Rai (Dead) Th. Lrs. & Anr.

Citation : 2026 LiveLaw (SC) 626 are being reproduced as follows in this respect -

“8. From a considered perusal of the above judgments, the following aspect of constructive res judicata can be highlighted: 8 (2024) 16 SCC 738 Civil Appeal No.2950 of 2011 Page 8 of 12

8.1 Constructive res judicata mandates that all grounds that might and ought to have been employed in the proceedings, should be employed to avoid multiplicity of proceedings.

8.2 It is a deeming fiction of law, but its application is not uniform and instead is dependent on the facts and circumstances of a particular case with ‘due regard to ambit of the earlier proceedings’ and ‘the nexus which the matter bears to the nature of the controversy’.

8.3 This principle is founded on public policy. It is a generally acceptable rule that one person should not be “vexed twice over” for the same kind of litigation. As such, it also applies to the proceedings under Article 226/32 of the Constitution of India.

8.4 In respect of ‘ought’ referred above, the said word implies the threshold to be above mere possibility.

8.5 The parties while conducting litigation are expected to apply ‘reasonable diligence’, ‘legitimate purview’. It is from this lens that it shall be adjudicated whether all issues that were properly arising to the litigation; which ought to have been raised; were raised or not?

8.6 The principle applies with equal force in cases where the ground that might and ought to have been raised was not done, on account of negligence, inadvertence or accident. In other words, might and ought to apply cumulatively with full force, without exception. The party therefore commits these errors at their own peril.”

It is undisputed that in the previous litigation, the parties, the subject matter, the period involved and the issues involved were one and same. The

order of this Tribunal in appeal is final between the parties because none of the parties filed writ against this order.

As referred to above, that any issue which ought to have been raised in the previous litigation but was not raised will also be considered as an issue directly and substantially involved. This is called principle of ***constructive res judicata***. Hence, in the light of this provision, the impugned order which is the second order is held barred by principle of ***constructive res judicata***. The Respondent Authority has committed error in law in ignoring this fact while passing impugned order and assessment.

Point for determination is answered accordingly.

No other point was pressed.

In the light of above discussion and findings, the appeal succeeds.

ORDER

Appeal is allowed with cost quantified at Rs. 50,000/- to be paid to Appellant Establishment by the Respondent Authority.

Impugned order dated 24.09.2019 is set aside.

Date:- 23/07/2026



**P.K. SRIVASTAVA
(PRESIDING OFFICER)**

Judgment Signed, dated and pronounced.

Date:- 23/07/2026

**P.K. SRIVASTAVA
(PRESIDING OFFICER)**