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

EPF Appeal No.- 77/2017
Present – P.K. Srivastava
H.J.S. (Retd.)

Nagar Palika Nigam, Katni,
Through Authorized Officer,
Shri Rakesh Tiwari,
S/o Shri G.D. Tiwari,
Tahsil: Mudwara, Katni (M.P.)

Appellant

V/s

Regional Provident Fund Commissioner,
Sub-Regional Office,
Scheme No.5, Vijay Nagar,
Behind Krishi Upaj Mandi,
Jabalpur (M.P.)

Respondent

Shri Uttam Maheshwari : Learned Counsel for Appellant.

Shri Abhishek Arjariya : Learned Counsel for Respondent.

JUDGMENT

(Passed on 04th day of February, 2026)

The present appeal is directed against the order dated 17.12.2012, passed by Respondent Authority under section 7-A of the ***Employees Provident Fund & Miscellaneous Provisions Act, 1952*** (hereinafter referred to as the **'Act'**), whereby, the Appellant Establishment has been held liable to deposit the EPF dues of its daily wager employee, from January, 2011 and has assessed the amount @ Rs. 14,24,619/-, further directed to deposit the amount with the organization and order dated 01.02.2013 dismissing the review petition against the first order dated 17.12.2012, the Appellant Establishment has preferred the Appeal.

The facts connected in brief are that, the Appellant Establishment is a Corporation constituted under *M.P. Municipal Corporation Act, 1956*. The provisions of the Act were made applicable on Local Administration

Organizations including the Appellant Corporation through notification dated 08.01.2011. The Respondent Authority issued a letter dated 11.08.2011, requiring Appellant Establishment to deposit EPF dues with from 08.01.2011 i.e. the date of notification and assessed the amount @ Rs. 14,24,619/- holding the Appellant Establishment liable to deposit the EPF dues from 08.01.2011 which is against the coverage letter and the Rules. The Appellant Establishment passed impugned order as well review order ignoring the objection of the Appellant Establishment that they were protected by the notification of Government of India, Ministry of Labour *No. R-11025(25)/87-SS.II* dated 06 October, 1989 which provided waiver of recovery of employees share on provident fund contribution which has not been deducted from the wages of employees during the pre-discovery period thus, committed error in law, hence this Appeal.

Grounds of appeal are mainly that the impugned order is bad in law and fact, has been passed by Respondent Authority ignoring the circular above mentioned, hence is incorrect in law and fact. The Respondent Authority committed error in law in ignoring the circular and recording the finding that the Appellant Establishment was liable to deposit EPF dues i.e. employees share of the provident fund since 08.01.2011 in spite of the fact that coverage letter was itself issued on 11.08.2011. The Respondent Authority thus wrongly assessed amount under Appeal and wrongly dismissed the review petition ignoring the said circular.

In counter to its appeal the case of the Respondent Authority is mainly that the act is beneficial legislation, its provisions apply *sui genesis,* hence there is no illegality or error in law or fact in recording the finding and assessment. Also that the notification of 08.01.2011 clearly stated that the coverage shall be from the date of notification hence the Appellant Establishment is obliged under law to deposit EPF dues from the date of notification. According to Respondent Authority, the letter dated 11.08.2011 is not a letter of coverage.

I have heard argument of Learned Counsel, Mr. Uttam Maheshwari for the Appellant Establishment and Mr. Abhishek Arjariya Learned Counsel for Respondent Authority. I have gone through the written arguments and the record as well.

On perusal of the record in light of rival arguments following point comes up for determination in the case in hand.

> ***Whether the finding of the Respondent Authority that Appellant Establishment is liable to deposit the employees share of provident fund regarding pre-discovery period which was not collected from employees as well assessment has been correctly recorded in law and fact?***

Learned Counsel for Appellant Establishment has mainly placed reliance on the aforesaid circular of 06 October, 1989. The circular is being reproduced as follows:-

"(1) Pre-discovery period:- This will include the period commencing on the 'date' from which the act is legally applicable to factory or establishment and the date on which a formal notice for coverage under the Act is served on the employer by the provident fund authorities. In all such cases, the employees share of contribution shall be payable from the first of the month following the issue of the notice for coverage under the Act.

(2) Period covered by general stay order given by the Supreme Court on the application challenging the notification extending the provisions of the Act to an industry/ class of establishment. This will include the period from the date of extension of the Act to the date of final Judgment of the Court. In all such cases, the employees share of contribution shall be payable from the first of the month following the Judgment."

Learned Counsel for Appellant Establishment has submitted that letter dated 11.08.2011 is the coverage letter whereas as submitted by Learned Counsel for Respondent Authority the notification dated 08.11.2011 should be treated as coverage letter because it is vide this notification the establishment has been covered under the Act from the date 08.11.2011 mentioned in the notification and letter dated 11.08.2011 is a simple communication of the coverage. On the other hand, Learned Counsel for Appellant Establishment has submitted that letter dated 11.08.2011 mentions that the establishment has been allotted PF Code and was required by the respondent organization to deposit PF dues of its employees in the said PF Code hence, it should be treated as a letter of coverage.

The Respondent Authority has treated the notification as letter of coverage and has treated the letter dated 11.08.2011 as communication.

I find no occasion to disagree with this finding of Respondent Authority for the reason that **firstly**, the notification itself declares that Appellant Establishment is covered under the Act and **secondly**, it was incumbent on Appellant Establishment to apply for PF Code in light of the said notification and start depositing PF dues after notification was released hence, this finding of Respondent Authority is affirmed.

The Appellant Establishment has further taken other pleas in their written submission that the delay was infact from the side of Government, who released funds after delay and also that no efforts were made by the Enforcement Officer to collect the details of identification of beneficiaries and their individual pay scales. He has relied on following judgments in this respect.

- ***S. K. Nasiruddin Beedi Merchant Ltd. v/s Central Provident Fund Commissioner & Anr. (2001) 2 SCC 612;***
- ***Mahenra Kumar v/s Lalchand & Anr. (2001) 2 SCC 619;***

As regards, no identification of the beneficiaries, this list was to be submitted by the Appellant Establishment. It also comes out that the list of muster roll employees were furnished by Appellant Establishment hence, this plea of non-identification of beneficiaries fails.

Point of determination is answered accordingly.

No other point was pressed.

In light of above discussion, affirming the impugned order, the appeal fails.

ORDER

Appeal dismissed.

No order as to cost.

Date:- 04/02/2026 **P.K. SRIVASTAVA**
(PRESIDING OFFICER)

Judgment Signed, dated and pronounced.

Date:- 04/02/2026

P.K. SRIVASTAVA
(PRESIDING OFFICER)