

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, MUMBAI

PRESENT

JUSTICE R.N. KAKKAR

CGIT-1/EPFA/19/2020

Parties:

M/s. Gopinath Dairy Products Pvt. Ltd,

V/s.

APFC, Vashi

Presence:

For the Appellant : Mr.H.L.Chhedda (Authorized Legal Representative)

For the Respondent : Mr. Suresh Kumar Adv.

Mumbai, Dated 13th August 2021

Condonation of Delay

1. This appeal is filed u/s 7(i) of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'Act') against the order dated 29-11-2019 passed by Assistant Provident Fund Commissioner – Vashi u/s 7-A of the Act.
2. Along with this appeal, three Miscellaneous Applications: (1) Condonation of delay, (2) Application for Waiver of deposit under proviso to Section 7-O, and (3) Application for grant of stay has also been filed by the Appellant.
3. Respondent filed reply against the waiver application and against which Appellant filed its rejoinder.



4. Heard both the parties at considerable length.
5. Perusal of the scrutiny sheet reveals that impugned order is passed u/s 7-A dated 29-11-2019 and this appeal is filed on 30-07-2020.
6. It is contended by the Appellant that Appeal has been filed well within the period of 120 days as provided under the law. Further submitted that due to lockdown and pandemic COVID-19 the office of the Appellant was completely closed as there was no permission to open the office for the reasons aforesaid. Further stated that Hon'ble Supreme Court, considering the spread of COVID-19 and lockdowns, passed an order dated 23-03-2020, with effect from 15th March 2020, in Writ Petition (Civil) No (S) 3/2020 extending the period of limitation prescribed under General or Special laws, whether condonable or not till further order which reads as:- *"To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective courts/tribunals across the country including this court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or special laws whether condonable or not shall stand extended w.e.f. March 15, 2020 till further order/s to be passed by this court in present proceedings"*.
7. Learned counsel for the Respondent opposed the delay condonation application and stated that Appellant has filed this appeal beyond the statutory period of limitation as provided under the Act but has admitted this fact that this appeal is filed within the extended period of limitation of sixty days and the reasons for the delay stated by the Appellant is not covered by the verdict of Hon'ble Apex Court.



8. Considering the above submissions and the ratio laid down by the Hon'ble Apex Court in suo motto writ petitions order dated 23-03-2020 and further in continuation of that order Hon'ble Supreme Court has again passed order dated 27-04-2021 which is reproduced as following, *"It is further clarified that the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings"*.
9. It is also pertinent to mention that the determinative factor for condonation of delay is not the length of the delay but sufficiency and satisfactory explanations. Under the facts and circumstances, the grounds shown before this Tribunal for condonation of delay in filing this appeal is found to be sufficient and genuine.
10. In the light of above reasons and discussions, I am of the view that delay is condonable. Therefore, this delay condonation application is to be allowed and is accordingly allowed.
11. Miscellaneous application EPF-19 (C) of 2020 is disposed of accordingly.



(*R.N. Kakkar*)
(JUSTICE R.N. KAKKAR)
PRESIDING OFFICER