

BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL DELHI-1

D-1/26/2024

M/s Subba Microsystem Ltd.

87-A, Sri Aurobindo Marg,

Adchini,

New Delhi-110017.

.....Appellant

Versus

Assistant Provident Fund Commissioner, Delhi (Central)

Bhavishya Nidhi Bhavan, 28, Community Centre Wazirpur Indl. Area,

Delhi-110052.

.....Respondent

Present: Sh. Rajiv Shukla, learned counsel for the Appellant.

Sh. S.N. Mahanta, learned counsel for the Respondent.

1. An appeal was filed by the applicant/appellant under section 7-I of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter called as “EPF Act”) challenging the impugned order dated 21.11.2023 passed by the respondent under section 7-A of the EPF Act, directing the appellant to deposit the EPF dues of Rs.1,28,04,830/- only. The above-said appeal of the applicant/appellant was dismissed for default vide order dated August 06, 2025. The applicant/appellant has filed an application seeking restoration of the above-said appeal alongwith another application for condonation of delay in filing of the requisite application for restoration of the appeal.

2. The respondent has strongly contested both the above-said applications by filing written replies to the said applications. The respondent has strongly denied the averments made by the applicant/appellant in both the applications. The respondent has prayed that both the above-said applications of the applicant/appellant should be dismissed.

3. I have heard the learned counsels for the parties.

4. Learned counsel for the applicant/appellant has argued that the Advocate of the appellant could not appear on 06.08.2025 due to his illness. Learned counsel for the applicant has further argued that the Advocate for the applicant had never informed the applicant that he could not appear on the date fixed i.e. 06.08.2025 due to his illness. Learned counsel for the applicant has pleaded that Smt. Jyoti Subba, holding the power of attorney on behalf of the applicant was a tribal women not having any knowledge about law, rules/regulations etc. Learned counsel for the applicant has further pleaded that due to the unfortunate death of her brother in September, 2025, the above-said Smt. Jyoti Subba remained busy in performing religious ceremonies and managing the family-affairs. Learned counsel for the applicant has stated that the above-said Smt. Jyoti Subba, holding power of attorney of the applicant first acquired knowledge about the dismissal of the present appeal on 09.12.2025 after receiving the demand notice prior to attachment of her moveable/immoveable properties issued by the Employees Provident Fund Organization, Delhi (Central). Learned counsel for the applicant has further stated that thereafter, the applicant had engaged a new counsel who had filed the present application after collecting the certified copy of the dismissal-order. Learned counsel for the applicant has contended

that the absence of the applicant or her counsel on 06.08.2025 was not intentional but was due to circumstances beyond her control. Learned counsel for the applicant has further contented that the delay of 169 days in filing the application seeking the restoration appeal had also occurred due to the circumstances mentioned above. Learned counsel for the applicant has prayed that the application under section 5 of the Limitation Act seeking condonation of delay in filing the restoration application and the application seeking restoration of the main appeal of the applicant/appellant should be allowed. Reliance in this behalf was placed upon the rulings cited as *Hiren Singha Roy V. Howrah Improvement Trust*, (2000) 9 SCC 309 and *Rafiq V. Munshilal*, (1981) 2 SCC 788.

5. Learned counsel for the respondent has strongly contested the above-said arguments advanced on behalf of the applicant/appellant. Learned counsel for the respondent has argued that the applicant and the counsel for the applicant had intentionally absented from the tribunal on 06.08.2025 in order to delay the proceedings. Learned counsel for the respondent has further argued that the appeal filed by the applicant/appellant was dismissed for want of prosecution on 06.08.2025 whereas the application seeking restoration of the appeal and the application seeking condonation of delay in filing the restoration application were filed on 22.01.2026 after a delay of five and a half months. Learned counsel for the respondent has pleaded that since the application for restoration of appeal was filed beyond the period of limitation, therefore, the same was liable to be rejected. Learned counsel for the respondent has further pleaded that there was no genuine ground for condoning such long delay in filing the restoration application by the applicant. Learned counsel for the respondent has prayed that both the applications of the applicant/

appellant were highly barred by limitation and should be dismissed with heavy costs.

6. It is not disputed that the procedure to be followed by all the Tribunals including this Tribunal is regulated by the Tribunal (Procedure) Rules, 1997 framed under the Employees Provident Fund and Miscellaneous Provisions Act, 1952. Admittedly, Rule 15 (2) of the Tribunal (Procedure) Rules, 1997 deals with the question of limitation for restoration of an appeal dismissed for default. Rule 15 (2) of the Tribunal (Procedure) Rules, 1997 is reproduced as under:

(2) Where an appeal has been dismissed for default and the appellant files an appeal within thirty days from the date of dismissal and satisfied the Tribunal that there was sufficient cause for his non-appearance when the appeal was called for hearing, the Tribunal shall make an order setting aside the order dismissing the appeal and restore the same:

Provided, however, where the case was disposed of on the merits the decision shall not be reopened except by way of review.

7. It would be seen that Rule 15 (2) of the Tribunal (Procedure) Rules, 1997 specifically restricts the period of limitation for filing an application for restoration of an appeal dismissed for default to a definite period of **thirty days from the date of dismissal of appeal.**

8. Admittedly, in the present case, the appeal in question was dismissed for want of prosecution on August 06, 2025. Accordingly, in terms of Rule 15 (2) of the Tribunal (Procedure) Rules, 1997, the requisite period of limitation for filing the application for restoration of said appeal had already expired on September 05, 2025.

9. However, the applicant/appellant has filed the restoration application alongwith another application for condonation of delay on January 22, 2026 after a **delay of five and a half months from the date of dismissal of the appeal** of the applicant/appellant.

10. In this background, it would be seen that both the above-said applications of the applicant/ appellant are hopelessly barred by limitation.

11. Hence, both the applications filed by the applicant/appellant are hereby dismissed.

12. Case file be consigned to the Record Room.

Sd/-

(Ajay Kumar Jain)

Presiding Officer

Central Government Industrial Tribunal, Delhi-1

26.05.2026