BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI-1

D-1/42/2023

M/s Ujjawal Enterprises (Regd.) Vs. RPFC-II, Delhi (North).

Present: Sh. Rajiv Arora, counsel for the appellant.
Ms. Santwana Agarwal, counsel for the respondent.

1. The Appellant had filed the present appeal challenging the order dated October 10, 2023 passed by the Respondent under section 14B of the EPF & MP Act, 1952 (hereinafter referred as 'the Act') whereby the amount of Rs.6,97,070/- had been assessed as damages payable by the appellant under the Act. Alongwith the appeal, the appellant has also filed an application seeking interim stay of operation of the impugned order passed under section 14B of the Act till final disposal of the appeal.

2. The respondent has filed a written reply contesting the stay application filed by the appellant. Respondent has prayed that the stay application filed by the appellant should be dismissed.

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

4. Learned counsel for the appellant has argued that the respondent had not given a finding regarding the actus reus and mens rea on the part of the appellant in the impugned order. Learned counsel for the appellant has further argued that the impugned order was a non-speaking order as it had not dealt with all the submissions made by the appellant during the proceedings. Learned counsel for the appellant has pleaded that

the respondent had also not recorded reasons in support of the impugned order. Learned counsel for the appellant has further pleaded that the respondent could not have initiated the proceedings under section 14B of the Act after the expiry of the period of three years from the alleged period of default by the appellant in view of a specific circular of the EPFO. Learned counsel for the appellant has contended that the respondent had also failed to grant the relaxation of five days in deposit of EPF dues by the appellant every month as directed by a circular of the year 1963 of the EPFO. Learned counsel for the appellant has further contended that in terms of a notification issued by the Central Government, the respondent was not authorized to assess any damages under section 14B of the Act. Learned counsel for the appellant has prayed that the operation of the impugned order dated October 10, 2023 under section 14 B of the Act passed by the respondent should be stayed during pendency of the appeal.

5. Per contra, learned counsel for the respondent has strongly denied the averments made by the Learned counsel for the appellant. Learned counsel for the respondent has alleged that the appellant has intentionally delayed the payment of the provident fund contributions in respect of its employees without any sufficient reason. Learned counsel for the respondent has argued that the existence of the mens rea and actus reus was not essential element while considering any default or delay in the payment of EPF Contributions by the employer under the Act. Learned counsel for the respondent has further argued that there was no justifiable ground for staying the operation of the impugned order. Learned counsel for the respondent has defended the impugned order passed by the respondent as being perfectly legal and valid and has prayed that the stay application of the appellant should be dismissed.

6. Learned counsel for the appellant has argued that the respondent had not given a finding regarding the actus reus and mens rea on the part of the appellant in the impugned order. Learned counsel for the appellant has further argued that the impugned order was a non-speaking order as it had not dealt with all the submissions made by the appellant during the proceedings. Learned counsel for the appellant has pleaded that the respondent had also not recorded reasons in support of the impugned order. Learned counsel for the appellant has further pleaded that the respondent could not have initiated the proceedings under section 14B of the Act after the expiry of the period of three years from the alleged period of default by the appellant in view of a specific circular of the EPFO. Learned counsel for the appellant has contended that the respondent had also failed to grant the relaxation of five days in deposit of EPF dues by the appellant every month as directed by a circular of the year 1963 of the EPFO. Learned counsel for the appellant has further contended that in terms of a notification issued by the Central Government, the respondent was not authorized to assess any damages under section 14B of the Act.

7. I am satisfied that the present appeal involves a number of arguable issues which would require a detailed hearing of the main appeal.

8. Keeping in view the arguable issues involved in the appeal, the operation of the impugned order under section 14B of the Act shall remain stayed subject to deposit of FDR of a nationalised bank equivalent to twenty five percent of the impugned amount imposed under section 14B of the Act for a

period of one year on auto-renewal basis in favour of the Registrar, CGIT by the appellant within a period of twelve weeks from the date of this order. In case of non-compliance of this direction by the appellant, the above said stay would stand automatically vacated.

9. Put up the case file on 08.12.2026 for reporting of compliance of the above said order. In the meanwhile, the interim stay already granted in respect of the impugned order under section 14-B of the Act is extended up to the next date of hearing.

(Ajay Kumar Jain)
Presiding Officer
Central Government Industrial Tribunal, Delhi-1
07.08.2026