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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

(i) + **W.P.(C) 8597/2015 & CrI.M.A.No.18678/2015**

M/S. HAMAR TELEVISION NETWORK PVT LTD

..... Petitioner

Through: Mr. Rajeev Singh, Advocate

versus

ASST. PROVIDENT FUND COMMISSIONER DELHI

(NORTH) DELHI

..... Respondent

Through: Mr. R.C.Chawla, Standing Counsel
for RPFC-Respondent with
Ms.Inderjeet Sidhu, Advocate

(ii) + **W.P.(C) 8599/2015 & CrI.M.A.No.18679/2015**

M/S. NORTH EAST MULTIMEDIA PVT LTD

..... Petitioner

Through: Mr. Rajeev Singh, Advocate

versus

ASST. PROVIDENT FUND COMMISSIONER DELHI

(NORTH) DELHI

..... Respondent

Through: Mr. R.C.Chawla, Standing Counsel
for RPFC-Respondent with
Ms.Inderjeet Sidhu, Advocate

(iii) + **W.P.(C) 8601/2015 & CrI.M.A.No.18682/2015**

M/S. M3 MEDIA PVT LTD

..... Petitioner

Through: Mr. Rajeev Singh, Advocate

versus

ASST. PROVIDENT FUND COMMISSIONER DELHI

(NORTH) DELHI

..... Respondent

W.P.(C) Nos.8597, 8599, 8601, 8602 & 8607 of 2015

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Signature Not Verified

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By:AMULYA

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Through: Mr. R.C.Chawla, Standing Counsel
for RPFC-Respondent with
Ms.Inderjeet Sidhu, Advocate

(iv) + **W.P.(C) 8602/2015 & CrI.M.A.No.18683/2015**
M/S. POSITIVE RADIO PVT LTD Petitioner
Through: Mr. Rajeev Singh, Advocate

versus

ASST. PROVIDENT FUND COMMISSIONER DELHI
(NORTH) DELHI Respondent
Through: Mr. R.C.Chawla, Standing Counsel
for RPFC-Respondent with
Ms.Inderjeet Sidhu, Advocate

(v) + **W.P.(C) 8607/2015 & CrI.M.A.No.18699/2015**
M/S. HY MEDIA ENTERTAINMENT PVT LTD Petitioner
Through: Mr. Rajeev Singh, Advocate

versus

ASST. PROVIDENT FUND COMMISSIONER DELHI
(NORTH) DELHI Respondent
Through: Mr. R.C.Chawla, Standing Counsel
for RPFC-Respondent with
Ms.Inderjeet Sidhu, Advocate

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
% **08.09.2015**

In the above-captioned five petitions, impugned order of 21st July, 2015 is assailed on identical grounds and so these five petitions were heard together and are being disposed of by this common order. Vide

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impugned order, petitioners' appeals under *The Employees' Provident Funds and Miscellaneous Provisions Act, 1952* stand dismissed as barred by time. The statutory period to file the said appeal is 60 days and under the aforesaid enactment, the delay of another 60 days can be condoned whereas in the instant matters, the delay is of about 300 days.

At the hearing, learned counsel for petitioners submits that the Managing Director of petitioner-companies was ill and later involved in a criminal case and was in custody so, the appeals could not be filed within the period of 120 days and that the amount due has been already deposited and petitioners are ready to pay the interest on the delay occasioned. The prayer made is for waiver of the damages, which are said to be of ₹1 crore approximately in these five matters. It is submitted that due to financial difficulty, petitioners are unable to pay the dues and that on account of illness of the Managing Director of the petitioner-companies inadvertent lapses occurred, which deserve to be condoned.

On behalf of respondent-Regional Fund Provident Commissioner, attention of this Court has been drawn to decisions of Division Bench of this Court in *Shree Shyamkamal Industries Pvt. Ltd. v. Union of India & Ors.* 2005 VII AD (Delhi) 155 and *Saint Soldier Modern Senior Secondary School v. Regional Provident Fund Commissioner* 2014 SCC Online Del.4496 to submit that *The Employees' Provident Funds and Miscellaneous Provisions Act, 1952* is a special enactment and so Section 5 of the *Limitation Act* has no application.

Upon hearing, and on perusal of impugned order, material on record and the decisions cited, I find that there is an absolute prohibition to condone the delay beyond the period of 120 days. Applying the

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dictum of decisions of Division Bench of this Court in *Shree Shyamkamal* (Supra) and *Saint Soldier* (supra), to the facts of the instant cases, I find that the impugned order does not suffer from any patent illegality or infirmity.

Consequently, these petitions and applications are dismissed.


(SUNIL GAUR)
Judge

SEPTEMBER 08, 2015

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