

Neutral Citation No: 2024.PHHC.089338



CWP-16178-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-16178-2024
Decided on:17.07.2024

M/s Forbs Aquamal Ltd.

.... Petitioner

Versus

Presiding officer, Central Government Industrial Tribunal-cum-Employees
Provident Fund Appellate Tribunal-I, Chandigarh and anr

....Respondents

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Harshit Singh, Advocate
Mr. Vinod Kumar Verma, Advocate
Ms. Sushmeet Kaur, Advocate and
Ms. Anisha Sharma, Advocate for the petitioner.

SANJAY VASHISTH, J.(Oral)

1. Petitioner-M/s Forbs Aquamal Ltd, has filed the present writ petition, seeking quashing of order dated 10.04.2024 (Annexure P-13) passed by respondent No.1- Presiding Officer, Central Government Industrial Tribunal-cum-Employees Provident Fund Appellate Tribunal-I, Chandigarh (for short, 'the CGIT, Chandigarh), vide which he was directed to deposit the 40% of the assessed amount in the proceedings of appeal under Section 7-I of the Act of 1952 as EPF No. 01/2024.



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For reference, Section 7-O of the Act of 1952 is reproduced herebelow:

“7-O. Deposit of amount due, on filing appeal.- No appeal by the employer shall be entertained by a Tribunal unless he has deposited with it seventy-five per cent. of the amount due from him as determined by an officer referred to in section 7A:

Provided that the Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this section.”

3. In the application moved by the petitioner before the Appellate Authority no special reason has been given for seeking waiver from depositing of the Statutory amount i.e. 40% as ordered by the Authority while entertaining the appeal by it under Section 7-I of the Act of 1952. Relevant part of the application, which is already appended with the writ petition reproduced herebelow alongwith its prayer clause :

“Application u/s7-O of the EPF and MP Act 1952 for waiver of the amount due in filing the present appeal.

Respectfully Showeth:

1. That the Applicant has preferred the accompanying Appeal against the impugned order dated 31.01.2024, and the grounds mentioned in the appeal may also be read as part and parcel of the present application.



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2. *That the Applicant on 02.02.2024 received the copy of the impugned order passed by the Ld. Respondent u/s 7-A of the EPF & MP Act, 1952 determining PF dues Rs.13,28,903/- for the period 04/2014 to 03/2018.*

3. *That at the outset it is pertinent to mention here that the inquiry initiated against the appellant was based on a wrong interpretation of law. Moreover, the impugned order is bad in the eyes of the law and is based upon surmises and conjectures and is liable to be set aside.*

4. *That appellants have complied with all the provisions of law and have never defaulted in payment of P.F. and allied dues.*

5. *That the Ld. Respondent ignored the submissions made and erroneously determined a sum of Rs.13,28,903/- as P.F. and allied Dues for the period 04/2014 to 03/2018 and directed the applicant to deposit the said amount immediately on the receipt of the order and submit copies of bank challans, failing which action to recover the said amount will be initiated under the provisions of Section 8-B to 8-G of the EPF & MP Act, 1952.*

6. *That the applicant apprehends that the Ld. Respondent at any time might resort to coercive measures. The order*



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Passed by the Ld. Respondent is not justified, improper and against the guidelines issued.

7. *That undue hardships shall be caused to the applicant if the present application for an ad-interim ex-parte order/stay is not allowed.*

8. *That the balance of convenience lies in the favour of the applicant and against the respondent.*

9. *This application is made bonafide and in the interest of justice.*

PRAYER

It is therefore respectfully prayed that the present application may be allowed and the order dated 31.01.2024 passed by the Ld. Respondent may be stayed during the pendency of the present appeal in the interest of justice, equity and fair play.

Any such other and further order or orders may kindly be passed as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."

4. This Court finds that in the title of the application the provision of law i.e. 'Section 7-O' of the Act of 1952 has been mentioned alongwith the request to waive of the amount due in filing the appeal . However, in the prayer clause there is no specific prayer for seeking waiver of the deposit of



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the statutory amount of 75%. Still, Tribunal/Appellate Authority exercising its power by virtue of the proviso under Section 7-O of the Act of 1952 has waived of the amount to the extent of 35% by asking the petitioner to deposit only 40% of the amount ordered by respondent No.2-Regional Provident Fund Commissioner-II, Baddi, Himachal Pradesh.

5. On examining the grounds pleaded in the application filed by the petitioner, no special reason is noticed to conclude that the petitioners request is genuine one.

6. Bare reading of Section 7-O of the Act of 1952 shows that the employer shall be precluded from the right of appeal until he deposits 75% of the amount assessed by the Controlling Authority under Section 7-A of the Act of 1952, however, the proviso under it allows the Appellate Authority/Tribunal, to exercise discretion, in a situation when it finds and reaches to the conclusion by recording its reasons in writing that the employer lacks the means to deposit the amount and therefore, may exercise its power by reducing the amount or waiving of the deposit of the complete amount as required under Section 7-O of the Act of 1952.

6. After hearing the learned counsel for the petitioner and going through the documents appended with the present writ petition, this Court does not find any sound reason to accept the request of the petitioner for



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waiver of deposit of 40% of the amount as ordered by the Appellate Authority therefore, the present writ petitions is hereby dismissed.

17.07.2024
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[SANJAY VASHISTH]
JUDGE

Whether speaking/reasoned
Whether reportable?

Yes/No
Yes/No