IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1887 OF 2025

Central Board of Trustees, Employees Provident Fund ...**Petitioner**

V/s.

M/s. Securevalue India Limited ...**Respondent**

Ms. Payoja Gandhi *with Ms. Devangi Manjrekar for the Petitioner.*

Mr. Ranjeev Carvalho *with Ms. Petrushka Dasgupta, Mr. Altamash Qureshi & Ms. Janhavi Kapesh Pise i/b. M/s. Link Legal for the Respondent.*

CORAM: SANDEEP V. MARNE, J.

DATED: 13 NOVEMBER 2025.

P.C.:

1) The Employees Provident Fund Organisation (**EPFO)** has petitioned this Court taking exception to the order dated 12 November 2024 passed by the Central Government Industrial Tribunal -2, Mumbai (**CGIT-2)** allowing the application preferred by the Respondent for condonation of delay of 110 days in filing the appeal.

2) The EPFO is aggrieved by order dated 12 November 2024 as it believes that under the provisions of Rule 7(2) of the Employees' Provident Fund Appellate Tribunal (Procedure) Rules 1997 (**Procedure Rules)** the Appeal is required to be filed within a period of 60 days of

the date of passing of the order and the Tribunal is invested with the jurisdiction to condone the delay of only 60 days beyond the originally prescribed period of 60 days. The Petitioner complains that the Tribunal has overstepped its jurisdiction by condoning delay beyond 60 + 60 = 120 days and it has accordingly filed the present Petition.

3) Brief factual background in which Petition is filed can be narrated thus:-

Respondent is alleged to have failed to remit provident fund contribution under Section 6 of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (**the EPF Act**), employees' pension fund contribution under Section 6A of the EPF Act, administrative charges under para 38 of Employees Provident Fund Scheme, 1952 and employees' deposit linked insurance fund contribution and administrative charges under Section 6C of the EPF Act in a timely manner from June 2012 to October -2023. Alleging belated provident fund remittances by the Respondent, summons dated 7 December 23 was issued by concerned Regional Provident Fund Commissioner (**the RPFC)** to the Respondent to show cause as to why damages and interest envisaged under Sections 14B and 7Q of the EPF Act should not be recovered from them. After grant of opportunity of hearing to the Respondent, the RPFC proceeded to pass orders dated 9 February 2024 in respect of Sections 14B and 7Q of the EPF Act assessing the damages of Rs.2,47,91,224/- and interest of Rs.1,49,62,077 payable on amounts of belated provident fund remittances from June 2012 to October-2023. According to the Petitioner, both the orders dated 9 February 2024 were dispatched by the RPFC by email as well as by speed post on 12 February 2024. RPFC issued a demand notice dated

27 June 2024 calling upon the Respondent to pay a cumulative sum of Rs.3,27,77,625/- towards damages and interest in pursuance of a certificate issued on 25 June 2024.

4) In the above background, Respondent lodged appeal under the provisions of Section 7-I of EPF Act challenging the orders dated 9 February 2024 before the CGIT. Alongwith its appeal, the Respondent filed application for condonation of delay contending that it acquired knowledge in respect of order dated 9 February 2024 on 29 July 2024 when representative of Respondent had visited the office of RPFC for making enquiries about demand notice dated 27 June 2024.

5) Application for condonation of delay was resisted by the Petitioner by filing affidavit-in-reply. By the impugned order dated 12 November 2024 the CGIT-2 has proceeded to allow the application for condonation of delay. Aggrieved by order dated 12 November 2024 present Petition is filed.

6) Ms. Gandhi, the learned counsel appearing for the Petitioner would submit that the appeal was required to be filed by the Respondent within a period of 60 days from the date of passing of order dated 9 February 2024 under the provisions of Rule 7 of the procedure rules. That by showing sufficient cause, the appeal could be lodged within further period of 60 days under the first Proviso to Rule 7(2) of the Procedure Rules. That the Procedure Rules do not provide for condonation of delay exceeding 120 days. That the Tribunal does not have jurisdiction to permit filing of appeal beyond 60+60=120 days. That therefore, the Tribunal has grossly erred in permitting filing

of the appeal after 110 days of expiring of 60 days. She would rely upon judgment of Division Bench of this Court in ***Siddhi Engineering V/s. The Regional Provident Fund Commissioner-II***[1]

7) Ms. Gandhi would further submit that the whole claim of the Respondent of acquisition of knowledge of passing of orders dated 9 February 2024 on 29 July 2024 is false. She would rely upon email exchanged between the parties on 12 and 13 February 2024 in support of her contention that representative of the Respondent had knowledge about contents of orders dated 9 February 2024. She would submit that without reading the orders dated 9 February 2024 Respondent's representative could not have raised the claim of non-consideration of Rs.38,33,179/- by the RPFC. She would accordingly submit that the order passed by the Tribunal deserves to be set aside.

8) *Per contra,* Mr. Carvalo would oppose the Petition submitting that there was in fact no delay in filing the appeal. That Respondent acquired knowledge of passing of orders dated 9 February 2024 for the first time on 29 July 2024 when its representative happened to visit the office of RPFC making the enquiries of demand notice dated 27 June 2024. That Madras High Court in ***M/s. Car World V/s. Employees' Provident Fund Appellate Tribunal***[2] has held that period of limitation is required to be computed from the date of acquisition of knowledge of the order and not from the date of the order. He would submit that the purported email dated 12 February 2024 did not contain any attachment. That Respondent was continuously urging RPFC to take into consideration various payments

[1] Writ Petition No.15694 of 2023 decided on 2 January 2024.

[2] W.P.No.12553 of 2020 decided on 16 September 2020

made by the Respondent from time to time and email response dated 13 February 2024 was another such attempt made by the Respondent. That the Tribunal has rightly noted the fact that Petitioner accepted the letter dated 15 April 2024 tendered by the Respondent seeking rebate in respect of Covid-19 period without disclosing to the Respondent the factum of passing of order dated 9 February 2024. He would submit that the Tribunal has exercised discretion by considering the aspect that Petitioner was unable to prove dispatch of the order by speed post or communication thereof by way of email attachment. He would therefore submit that no interference is warranted in exercise of such discretion by the Tribunal. He would accordingly pray for dismissal of the Petition.

9) Rival contentions of the parties now fall for my consideration.

10) Appeal against orders passed under the provisions of Sections 14B and 7Q of the EPF Act lies before the Tribunal under provisions of Section 7-I, which provides thus:-

> 7-I. Appeals to Tribunal.—(1) Any person aggrieved by a notification issued by the Central Government, or an order passed by the Central Government or any authority, under the proviso to sub-section (3), or sub-section (4), of section 1, or section 3, or sub-section (1) of section 7A, or section 7B [except an order rejecting an application for review referred to in sub-section (5) thereof], or section 7C, or section 14B, may prefer an appeal to a Tribunal against such notification or order.
>
> (2) Every appeal under sub-section (1) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed.

11) In exercise of powers under Section 21 of the EPF Act the Procedure Rules have been formulated. Rule 7 deals *inter-alia* with time for filing of appeal and provides thus:-

> **7. Fee, time for filing appeal, deposit of amount due on filing appeal.** — (1) Every appeal filed with the Registrar shall be accompanied by a fee of Rupees five hundred to be remitted in the form of Crossed Demand Draft on a nationalized bank in favour of the Registrar of the Tribunal and payable at the main branch of that Bank at the station where the seat of the said Tribunal situate.
> (2) Any person aggrieved by a notification issued by the Central Government or an order passed by the Central Government or any other authority under the Act, may within 60 days from the date of issue of the notification/order, prefer an appeal to the Tribunal.
> **Provided** that the Tribunal may if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the prescribed period, extend the said period by a further period of 60 days.
>
> **Provided further** that no appeal by the employer shall be entertained by the Tribunal unless he has deposited with the Tribunal a Demand Draft payable in the Fund and bearing 75% of the amount due from him as determined under Section 7-A.
>
> **Provided also** that the Tribunal may for reasons to be recorded in writing, waive or reduce the amount to be deposited under Section 7-O.

12) Thus, sub-rule 2 of Rule 7 of the Procedure Rules provides that a person aggrieved by order passed under the EPF Act can file an appeal before the Tribunal within a period of 60 days 'from the date of issue of the notification/order'. Unlike the court, enquiry proceedings before RPFC under the EPF Act are not conducted by fixation of dates at each stages in the proceedings and particularly no date is fixed for pronouncement of the order. After completion of enquiry, the officer concerned passes the order in his office which is then communicated to the affected person/ entity. Therefore, date of

passing of order is not the starting point of limitation for the purpose of Rule 7(2) of the Procedure Rules. Merely because the order is passed in the office by RPFC, the same would not imply acquisition of knowledge by the affected party. Therefore, the time period for filing of the Appeal would begin to run only on the date on which the order is served on the affected party.

13) Now I proceed to decide the exact date on which order dated 9 February 2024 was made known to the Respondent. Petitioner has relied on email dated 12 February 2024, which reads thus:-

> Please find attached herewith the 14B **<u>Notice</u>** & 7Q order dated 09/02/2024 in respect of M/s. Securevalue India Ltd. bearing PF Code no.MH/127936.
>
> *(emphasis added)*

The said email refers to 14-B 'notice' and 7Q order dated 9 February 2024. Actually what was passed on 9 February 2024 was not 14B 'notice' but 14B order. Even if this error in the email is ignored, it is seen that the email does not contain any attachment. In that view of the matter, it cannot be inferred that copies of orders dated 9 February 2024 were served on the Respondent vide email dated 12 February 2024. Petitioner has relied upon response given by the representative of the Respondent on 13 February 2024 to the email dated 12 February 2024. The response reads thus:-

> Dear Sir,
> Please refer attached emails, you haven't considered 38,33,179/-. Request you to look into this n send us revised one to pay further.

14) Since the representative of the Respondent complained about non-consideration of Rs.38,33,179/-, it is contended on behalf

of the Petitioner that said representative had read the order. However, when the email dated 12 February 2024 did not contain any attachment, it is difficult to believe that the representative of the Respondent was in a position to read the order. In that view of the matter, submission made by Mr. Carvalho about response dated 13 February 2024 being another attempt by the Respondent urging the RPFC to take into consideration various amounts, needs to be accepted. It is therefore difficult to conclusively hold that representative of the Respondent had received or read the order dated 9 February 2024 on 13 February 2024.

15) Also of relevance is the fact that in its affidavit-in-reply the Petitioner raised a specific defence that order dated 9 February 2024 was dispatched by the Petitioner vide speed post. However, no document is produced by the Petitioner to show dispatch or delivery of any packet containing the order dated 9 February 2024 by speed post. The Tribunal has also considered one more aspect of letter dated 15 May 2024 by which Respondent had tendered letter to EPFO seeking rebate in respect of Covid-19 lockdown. The said letter was accepted and acknowledged by the RPFC without communicating to the Respondent in any manner that the enquiry was already closed. If the enquiry was already closed and closure of the enquiry was in the knowledge it was not a natural conduct on the part of the Respondent to approach RPFC for tendering the letter dated 15 May 2024 for seeking rebate in respect of Covid-19 period. Tendering the letter dated 15 May 2024 by the Respondent would in fact create an impression that Respondent was unaware of passing of order on 9 February 2024.

16) The need to compute the period of limitation from the date of service of order has also been highlighted by Madras High Court in **M/s. Car World** (supra) in which in paragraph 5 it is held as under:

> 5. The only possible inference that could be drawn from the incontrovertible fact situation reflected supra is that there is nothing available on record to accept that the Second Respondent had communicated the Order No. TB/TAM/RO/ENF/522/63529/2018 dated 31.05.2018 to the Petitioner by registered post and that physical delivery of that order to the Petitioner through any other mode has not been proved at any time earlier prior to the admitted recept of its copy on 08.11.2018 by its representative at the office of the Second Respondent. Inasmuch as the appeal had been filed on 28.11.2018, within the prescribed period of limitation of 60 days from that date, it could not have been treated as barred by limitation.

17) Reliance by Ms. Gandhi on ***Siddhi Engineering*** (supra) does not cut any ice. In that case, a direct Writ Petition was filed by the Petitioner therein challenging the order passed in pursuance of enquiry under Section 7A of the EPF Act. The said Petition was filed 24 months after expiry of period of 60+60 =120 days. The Division Bench held that if Tribunal cannot entertain the Appeal beyond 120 days, it would be impermissible to approach the High Court directly. Thus, the judgment of the Division Bench in ***Siddhi Engineering*** (supra) cannot be relied upon in support of an abstract proposition that either the period of limitation needs to be computed from the date of passing of order or that Tribunal cannot conduct the enquiry into the aspect of the date of acquisition of knowledge of the order.

18) Considering the above position, I do not find any serious error in the order of the Tribunal accepting claim of Respondent about acquisition of knowledge of passing of order dated 9 February 2024 on

29 July 2024. I am therefore not inclined to interfere in the impugned order dated 12 November 2024.

19) Writ Petition is accordingly **dismissed.**

[SANDEEP V. MARNE, J.]