



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

% Date of Decision: 10.07.2025

+ **W.P.(C) 9462/2025, CM APPL. 39973/2025 and**
CM APPL. 39974/2025

MS TRIG DETECTIVES PVT LTD

.....Petitioner

Through: Ms.Nupur Kumar, Mr.Ambuj Tiwari,
Ms.Niharika Tanwar and Ms.Muskan S.,
Advocates

versus

REGIONAL PROVIDENT FUND COMMISSIONER 1

.....Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of the present petition, the petitioner is aggrieved by the order dated 28.05.2025 (hereinafter, '*impugned order*') passed by the Central Government Industrial Tribunal Cum Labour Court, Delhi (hereinafter, '*CGIT*'), under The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter, '*the Act*').

2. Pithily put, the facts of the matter are that in the proceedings carried out against the petitioner under Section 148 of the Act, the respondent passed two orders dated 09.09.2024 against the petitioner under Sections 14B and 7Q of the Act, respectively, in total levying damages to the tune of Rs.2,10,86,897/- alongwith interest amounting to Rs.1,68,76,071/-, for making delayed contributions toward Provident Fund, Employees' Pension



Fund and Employees' Insurance Fund during the period from 01.09.2018 to 31.03.2024. Challenging the said orders, the petitioner filed an appeal on 02.05.2025 before the CGIT alongwith an application seeking condonation of delay, which came to be dismissed on the ground of the appeal being barred by limitation vide the impugned order dated 28.05.2025.

3. Before this Court, learned counsel for the petitioner submits that the delay in filing the appeal was neither intentional nor deliberate. She further submits that the owing to the lackadaisical attitude and the carelessness of the erstwhile counsel, the appeal wasn't filed within the prescribed period even though the erstwhile counsel was duly engaged in December 2024 and proper instructions alongwith requisite documents were supplied at the time. Moreover, she contends that the appeal as well as the condonation of delay application was filed belatedly without the knowledge of the petitioner, the latter not even carrying the signature of the authorized representative of the petitioner. She further submits that the erstwhile counsel, while filing the said appeal, used the affidavit provided by the petitioner way back in December 2024 by overwriting 'May 2025' on the same. Lastly, it is submitted that there was no intentional suppression of fact of knowledge of the challenged orders dated 09.09.2024 before the CGIT, rather, the petitioner was represented without instruction and that there existed substantial cause for the resultant procedural delay.

4. I have heard learned counsel for the petitioner and gone through the record.

5. A perusal of the record would show that vide the impugned order, the appeal came to be dismissed on the grounds of being time barred, having



been filed with a delay of 113 days beyond the maximum condonable period of 120 days. While the petitioner had claimed to have gained knowledge of the orders dated 09.09.2024 only on 16.04.2025 when the recovery certificate was statedly received by it, the respondent argued that the same was dispatched on 10.09.2024 and delivered on 12.09.2024 to the petitioner's address. More so, the order was sent on the official email id of the petitioner. The CGIT had further taken note of the Board Resolution of the petitioner dated 27.11.2024, vide which the Board of Directors had not only acknowledged the said order passed by the Regional Provident Fund Commissioner, but also had resolved to file an appeal against the same before the CGIT. Having perused the same, it is amply clear that the petitioner had complete knowledge of the said order, at least on the date of the passing of the Board Resolution, i.e., 27.11.2024.

6. Rule 7(2) of the Employees' Provident Funds Appellate Tribunal (Procedure) Rules, 1997 (hereinafter, '*the EPFA Rules*') provides for an appeal to be filed under the Act within a period of 60 days with an extension of 60 days that can be provided by the Tribunal subject to sufficient cause being shown by the Applicant. Thus, no delay is statutorily condonable beyond a period of 120 days from the date of the challenged order.

7. The question as to whether the Tribunal has the power to condone delay beyond the statutorily provided outer limit of 120 days from the date of the assailed order is fortunately no longer *res integra*. A gainful reference may be made to the decision of the Coordinate Bench of this Court in Saint Soldier Modern Senior Secondary School v. Regional Provident Fund



Commissioner,¹ wherein, while referring to the decisions in Assistant Provident Fund Commr., Meerut v. Employees Provident Fund App.² passed by the Division Bench and Prudential Spinners Ltd. v. Employees P.F. Appellate Tribunal³ passed by a Coordinate Bench, it was observed as follows:

*“9. A perusal of the Section 7-I of the Act and Rule 7 of the Rules would reveal that the time period for filing an appeal is within 60 days from the date of issue of the notification/order, provided, the Tribunal, if satisfied that for certain sufficient cause, the appeal could not be preferred within the period of 60 days, then, the period to file appeal can be extended to 60 days thereafter. **Suffice to state, the provisions does not vest any power with the Tribunal to condone a delay beyond that period.** This issue is no more res-integra in view of the judgment of the Supreme Court in the case of Commissioner of Sales Tax, U.P., Lucknow (supra), wherein, the Supreme Court was dealing with a case wherein the respondent, who was carrying business in Kanpur, was assessed for Sales Tax for the year 1958-59 and 1959-60 by two separate orders.....*

*... 10. From the above decision of the Supreme Court, even in the case in hand, it is clear from the provisions of the Act, which is a special statute, a certain period of limitation is prescribed for filing the appeal. **In the eventuality, the appeal is not filed within the said period, the power to condone the delay is for a further period of 60 days and no more. As held by the Supreme Court, the Tribunal has no jurisdiction to treat within limitation an application filed before it, beyond such maximum time limit specified by the statute.** The ratio of the Supreme Court judgment is applicable in the facts.”*

(emphasis supplied)

Similarly, this Court, in its decision passed in **W.P.(C) 5572/2025** titled as ‘M/S Khyber Service Station and Anr v. Kali Charan’, dated 09.05.2025, while dealing with Section 7(7) of the Payment of Gratuity Act,

¹ 2014 SCC OnLine Del 3140.

² 2005 SCC OnLine Del 799.

³ 2007 SCC OnLine Del 203.



1972, which is *pari materia* to Rule 7(2) of the EPFA Rules in terms of the period of limitation, also held to a similar extent that the Appellate Authority lacks the jurisdiction to consider an appeal if it exceeds 120 days from the date of receiving the assailed order.

8. In light of the aforesaid legal position, it is clear that the period of limitation of 120 days provided by the statute is to be strictly construed and the Tribunal has no jurisdiction to even entertain an application of condonation of delay beyond the said period.

Coming to the facts at hand, the order challenged before the CGIT was passed on 09.09.2024. The appeal to the said order came to be filed on 02.05.2025, which was with a delay of 113 days beyond the prescribed condonable period of 120 days. It is the admitted case of the petitioner before this Court that it had knowledge of the order dated 09.09.2024 before the expiry of the limitation period and the petitioner had, in fact, engaged a lawyer to file an appeal before the Tribunal in December 2024 itself. As noted above, the same is also clear from the Board Resolution dated 27.11.2024. However, the appeal having been filed belatedly, the petitioner has tried to shift the blame on the erstwhile counsel to justify the stated delay. Pertinently, no official complaint was filed against the erstwhile counsel and the petitioner has failed to show any documentary proof of having pursued the matter diligently or to address his grievance against the erstwhile counsel. In the absence of the same, the petitioner's contention that sufficient cause existed to explain the delay is clearly misplaced and its attempt to blame the counsel is seemingly an afterthought. Even otherwise, the delay in question is beyond the strictly imposed limitation period of 120



days and hence, not condonable.

9. Even though this Court is not convinced with the contention of the petitioner that the delay in filing the appeal was unintentional and condonable, and the challenge to the impugned order is liable to be dismissed on that count itself, however, the Court has also examined the merits of the case to satisfy itself on the question of whether the petitioner failed to make timely payments of contributions under the Act for the periods mentioned in the summons issued therein.

Before the Regional Provident Fund Commissioner, the petitioner was given adequate opportunity to defend itself on the count of delayed payment, however, it neither disputed the date or amount of payment of contribution mentioned in the summons in its counter-affidavit, nor gave any adequate justification for the stated delay in depositing contributions. It was also noted by the Regional Provident Fund Commissioner that delayed payment was made by the petitioner for multiple periods; more specifically, while payment for the month of March 2010 was made on 13.02.2023, payment for the month of April 2013 was made on different dates through 9 different challans, whereas payment for the month of October 2016 was also made on different dates through 9 different challans. Thus, it is clear from the record that the petitioner delayed in making the said contributions for the subject periods and no justifiable reason was given for the same, except bald assertions of having made timely payments. Therefore, even on merits, no case is made out to set aside the orders dated 09.09.2024.

10. Keeping in view the settled legal position discussed above as well as the entire facts and circumstances of the case, I find no perversity with the



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assailed orders dated 28.05.2025 and 09.09.2024. Accordingly, the challenge against the same is dismissed alongwith the pending applications.

MANOJ KUMAR OHRI
(JUDGE)

JULY 10, 2025

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(corrected and released on 17.07.2025)