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

\+ W.P.(C) 18476/2025&CM APPL. 76596/2025 (Stay)

ANAND AND COMPANY .....Petitioner

Through: Mr. Sudhir Kumar Gupta, Mr. Vinay Bhasin and Mr. Raj Kumar Garg, Advocates.

versus

REGIONAL PROVIDENT FUND COMMISSIONER .....Respondent

Through: Mr. Siddharth SC for EPFO with Mr. Prateek Goyal and Mr. Harshit Manwani, Advocates for EPFO.

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

<u>O R D E R</u>

% 04.12.2025

1. This hearing has been done through hybrid mode.

<u>CM APPL. 76597/2025 (Exemption)</u>

2. Allowed, subject to all just exceptions. The application is disposed of.

<u>W.P.(C) 18476/2025 & CM APPL. 76596/2025 (Stay)</u>

3. The present petition under Article 226/227 of the Constitution of India, 1950, seeks the following prayers: -

> "a) Stay the operation and effect of the impugned order dated 12.09.2025 (Annexure P-1) passed by the Learned Presiding Officer, CGIT, Delhi in Appeal No. D-1/36/2025, pending disposal of the accompanying Writ Petition;
>
> b) Stay all coercive and recovery proceedings in pursuance of the 14-B & 7-Q order dated 28.07.2025 (Annexure P-9); and
>
> c) Pass such other and further orders as this Hon'ble Court may

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deem fit and proper in the facts and circumstances of the case."

4. The present petition has been filed assailing the impugned order dated 12.09.2025 passed by learned CGIT, New Delhi, in Appeal No. D-1/36/2025, whereby prayer of the appellant for grant of stay was allowed and it was directed to deposit Rs. 40,79,979/- by way of FDR for a period of 1 year within four weeks from passing of the order. It was further directed that if the petitioner fails to comply with the condition laid down by the learned Tribunal within stipulated time frame, the stay shall not be in operation. The said appeal was filed by the petitioner against two separate orders dated 28.07.2025, passed under Sections 14B and 7Q of the Employees, Provident Funds and Miscellaneous Provisions Act, 1952, (for short, 'EPF & MP Act') whereby, learned EPFO had ordered for levy of penal damages of Rs.47,09,426/- on the petitioner as damages as well Rs.40,79,979/- as interest.

5. Learned counsel for the petitioner submits that learned CGIT has erred in passing the impugned order as it has directed the petitioner to deposit the entire interest amount of the damages levied. It is further submitted that the learned Tribunal has not taken into consideration that the impugned order passed by learned EPFO was suffering from various procedural irregularities. It is the case of the petitioner that the inquiry under Sections 14B and 7Q of the EPF & MP Act was concluded on 23.12.2024 by learned Assessing Officer; however, the impugned orders dated 28.07.2025 were passed by a different Assessing Officer, who had not conducted the said inquiry. It is also the case of the petitioner that the interest amount levied on the damages has been calculated arbitrarily and without supplying the basis of calculation and without affording the petitioner an opportunity of hearing. It is further submitted that learned EPFO has incorrectly recorded in orders dated

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28.07.2025 that the authorised representative of the petitioner has agreed to pay the dues. It is further submitted that after closure of the inquiry on 23.12.2024, no opportunity of hearing was granted to the petitioner and learned EPFO directly proceeded and passed the impugned orders on 28.07.2025. Reliance has been placed on a judgment passed by a Coordinate Bench of this Court in **Vodafone Idea Ltd. v. Regional Provident Fund Commissioner-II, 2024:DHC:2853**, wherein, it was observed and held as under: -

> "54. In light of the above stated provision, this Court is of the view that the impugned recovery certificate which directs recovery of amount under Section 14-B as well as under Section 7-Q of the Act suffers from illegality in respect of its direction for recovery under Section 14- B of the Act. Since, the learned Appellate Authority has specifically granted conditional stay on deposit of 10 % of the amount of damages assessed under Section 14- B of the Act, therefore, the authorised officer could not have issued the certificate for recovery of damages computed under Section 14- B.
>
> 55. Accordingly, the impugned recovery certificate dated 10th July 2020 is set-aside.
>
> 56. In view of the aforesaid facts and submissions as well as the settled law, this Court is of the view that the learned appellate authority's order dated 31st July 2020 suffer from legal infirmity and accordingly, the same is partially set-aside with respect to not entertaining on the merits of the impugned order dated 28th May 2020 passed under "Section 7Q of the Act". This Court also set asides the impugned recovery certificate dated 10th July 2020.

6. *Per contra*, learned Standing Counsel for EPFO, who appears on an advance notice, submits that EPF & MP Act does not provide for filing of appeal except in case of an computation error in calculating the interest component of the damages levied under Section 14B of the Act. He further

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submits that the petitioner was given an opportunity of hearing while the interest under Section 7Q of the Act was computed. He further submits that impugned orders before the learned Tribunal were passed by learned Assessing Officer on the basis of the consent given by the authorised representative of the petitioner. Attention of this Court has been drawn towards show cause notice dated 20.06.2024 issued by EPFO to the petitioner under Section 7Q of the Act for order of payment of interest for the period from 11.01.2020 to 31.03.2024 for which the petitioner had defaulted in remitting the contributions and it is submitted that the petitioner had, in fact, been provided with an opportunity of hearing while the interest on the damages was calculated. It is pointed out that EPF & MP Act does not provide for a provision of appeal against order passed under Section 7Q of the Act and the learned Tribunal has only directed the deposit of interest component till the final disposal of the appeal of the petitioner. He has also drawn attention of this Court and has relied on the following observations in **Vodafone Idea Ltd.** (***supra***): -

> "37. In light of the aforesaid discussions, this Court will now refer to the judgment of the Hon"ble Supreme Court in the case of ***Arcot Textile Mills Ltd. v. Regl. Provident Fund Commr.*** **(2013) 16 SCC 1,** which dealt with the aspect of maintainability of an appeal against an order passed under Section 7Q of the Act. The relevant paragraphs of the said judgement have been reproduced below:
>
> "**** **** ****
>
> 34. Regard being had to the discussions made and the law stated in the field, we are of the considered opinion that natural justice has many facets. Sometimes, the said doctrine applied in a broad way, sometimes in a limited or narrow manner. Therefore, there has to be a limited enquiry only to the realm of computation which is statutorily

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provided regard being had to the range of delay. Beyond that nothing is permissible. We are disposed to think so, for when an independent order is passed making a demand, the employer cannot be totally remediless and would have no right even to file an objection pertaining to computation. Hence, we hold that an objection can be filed challenging the computation in a limited spectrum which shall be dealt with in a summary manner by the competent authority. "

38. The Hon'ble Supreme Court in the above said judgment held that in case an order under Section 14- B of the Act is passed then there is an automatic imposition of interest under Section 7- Q of the Act without affording an opportunity to the affected party to file an appeal against the order passed Section 7- Q of the Act. Accordingly, the Hon'ble Court held that the same amounts to violation of principles of natural justice. The Hon'ble Court further held that under Section 7-Q of the Act, the affected party shall have the liberty to challenge the amount of interest as computed by the Authority and the same shall be dealt in a summary manner by the Competent Authority."

(emphasis supplied)

7. Heard learned counsel for the parties and perused the records.

8. Learned CGIT while passing the impugned order dated 12.09.2025 had observed as under: -

"6. Now, coming to the present appeal, so far so the contents of Section 14 B of the Act, is concerned, the word 'may' has been used in the Act. It is the respondent who had often take the view that he has no discretion to reduce the damages from the rate prescribed in the scheme, is of little value. If that is considered to be true, the legislation would have never used the word 'may'. This proposition is also fortified with the facts that when the department during the **Covid-19 had exempted the establishments from levy of damages** imposed due to belated ·remittances or introduction of **'Para 82A - Special provision in respect of Employees' Enrollment Campaign' when the damages is levied @One Rupee Per Annum**. If the discretion is not vested with the respondent department, the department could not do so.

7. So far so, the plea of appellant counsel that the order passed by the

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respondent is not passed strictly in accordance with the provision of the Act and suffers from various irregularities, it has to be seen at the time of final disposal when the respondent has submitted his reply to this appeal and after examination of the trial court record. In the circumstances discussed above, the appellant is directed to deposit at least the interest component which is to be deposited in the subscribers account. In case, this tribunal reaches to an otherwise conclusion at the time of final disposal of this appeal, then, whole amount shall be directed to refund.

8. With this the prayer of the appellant to grant stay is allowed to such an extent that there is a stay on recovery subject to deposit of Rs.40,79,979/- by way of **FDR** favoring **'Registrar CGIT'** initially for a period of one year having auto renewal mode, within four weeks from today. It is made clear that if the appellant fails to comply with the condition laid down by this tribunal within the stipulated i:ime frame, the stay shall not be in operation and the respondent shall have the liberty to execute the order as per rules. Put up for reporting compliance by appellant as well as filing of reply to the appeal by ld. Counsel for the respondent on 04.11.2025. In the meanwhile, interim orders to continue till next date of hearing."

9. Relevant provisions under The Employees' Provident Funds and Miscellaneous Provisions Act, 1952, reads as under: -

"**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.

**** **** ****

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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.

**** **** ****

7Q. Interest payable by the employer.—The employer shall be liable to pay simple interest at the rate of twelve per cent per annum or at such higher rate as may be specified in the Scheme on any amount due from him under this Act from the date on which the amount has become so due till the date of its actual payment:

Provided that higher rate of interest specified in the Scheme shall not exceed the lending rate of interest charged by any scheduled bank.]"

10. The case of the petitioner is that it was not afforded with any opportunity while the interest amount of Rs.4079979/- was calculated by the learned EPFO. However, learned Standing Counsel for the EPFO has drawn towards the following show cause notice dated 20.06.2024 issued to the petitioner prior to the passing of the impugned order dated 12.09.2025 under Section 7Q of the Act: -

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फोन/Telephone:011-27376772
फैक्स/Fax:011-27376777

कर्मचारी भविष्य निधि संगठन
EMPLOYEES' PROVIDENT FUND ORGANISATION
क्षेत्रीय कार्यालय, दिल्ली (उत्तर)/ REGIONAL OFFICE, DELHI (NORTH)
श्रम एवं रोजगार मंत्रालय, भारत सरकार
MINISTRY OF LABOUR & EMPLOYMENT, GOVERNMENT OF INDIA
भविष्य निधि भवन, 28-सामुदायिक केन्द्र, वज़ीरपुर औद्योगिक क्षेत्र, दिल्ली - 52
28 COMMUNITY CENTRE, WAZIRPUR INDUSTRIAL AREA, DELHI – 52

No.: DL/CPM/14582/Compliance-IV/ Interest / 107 / 1026 Date: 20 JUN 2024

Order for payment of interest u/s 7Q of the EPF and MP Act, 1952 in respect of belated remittance made during the period 11/01/2020 to 31/03/2024

(Please quote this reference number in your reply)

To.
Kind Attn: Mr Robin Khattar (Partner)
Mr. Parmod Kumar Anand (Partner)
M/s Anand And Company
15/32 East Punjabi Bagh
Delhi - 110026

Whereas, M/s Anand And Companyis an establishment covered under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (herein after referred to as the Act), with Establishment ID DL/CPM/14582.

And whereas, under the provisions of the section 6, 6A and 6C of the Act read with Para 38 of the Employees' Provident Fund Scheme 1952, Para 3 of Employees' Pension Scheme 1995 and Para 8 (1) of Employees Deposit Linked Insurance Scheme 1976, the employer of the establishment is required to remit the contributions along with the administrative charges within 15 days of the close of every month,

And whereas, under section 7Q of the Act, where an employer makes default in payment of the contributions or any charges, the employer/establishment is liable to pay the amount of interest @ 12% per annum, as mentioned above, and the same should be paid within 15 days of receipt of this summon/order. The payment should be made using the Challan generated on the ECR Portal by log in to the portal and using the Challan Entry option. The details of the interest should be entered in the fields for miscellaneous payment and the option should be selected as Interest u/s 7Q for each account.

Now, after scrutiny of the records maintained by this office for the remittances made by you during the period from 11/01/2020 to 31/03/2024 shows that there are certain payments which were made after the respective due dates and the total amount by way of interest on such belated payments are as under: (Details in Annexure A)

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Schedule Heads	Interest (Rs.) u/s 7Q
EPF Contributions in A/c 1	2661181
EPS Contribution in A/c 10	1288850
EPF Administration/Inspection charges in A/c 2	82428
EDLI Contribution in A/c 21	17520
EDLI Administration/ Inspection charges in A/c 22	0
Grand Total	4079979

You are entitled for an opportunity of being heard before passing an order for payment of Interest under section 7Q. You may therefore avail this opportunity and in such case may appear either in person or through your representative duly authorized by you to do so, before the undersigned on ..[illegible].. day of [illegible].......... 2024 at ..[illegible]... If you had made the payments within the respective due dates, the supporting documents of proof of such remittances within the respective due dates may be produced on the date of hearing.

In case you have already made the payment of the Interest, please reply immediately quoting the reference number mentioned above with proof of such remittance.

In case you do not wish to make any representation and agree with the details mentioned in the Annexure A, you may remit the same through a Challan generated on the ECR Portal by log in to the EPFO portal using establishment Electronic Challan cum Return (ECR) credentials. Under the drop down, tab **Payments**, click on **Damages and Interest**. The total penalty amount will be automatically calculated for the establishment. Where there period as mentioned in calculation sheet provided with the Summons is not shown in auto calculated sheet, then enter the details in the fields provided for Interest in the Challan format using the miscellaneous payment option.

Please note that in the event of your failure to attend the hearing in person or through a person duly authorized by you to represent you, the undersigned shall proceed to hold the inquiry in the above matters and pass an order for payment of interest on the basis of the records available.

Issued under my signature and seal on this ...19th..... day of ...[illegible]...

(Rajkapal Meena)
REGIONAL PROVIDENT FUND COMMISSIONER-I
COMPLIANCE-IV

(emphasis supplied)

11. The aforesaid, *prima facie*, shows that the petitioner was given a show cause notice prior to the passing of order dated 28.07.2025 under Section 7Q

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of the Act along with a schedule of calculation, and thereafter, the interest amount was calculated. Learned EPFO while passing the order dated 28.07.2025 under Section 7Q of the EPF & MP Act had observed as under: -

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कर्मचारीभविष्यनिधिसंगठन
EMPLOYEES PROVIDENT FUND ORGANIZATION
(श्रमएवंरोजगारमंत्रालय, भारतसरकार)
(Ministry of Labour & Employment, Government of India)
क्षेत्रीयकार्यालय, दिल्ली (उत्तर) / Regional Office, Delhi (North)
भविष्यनिधिभवन, 28, सामुदायिककेंद्र, वजीरपुरऔद्योगिकक्षेत्र, दिल्ली– 110052
Bhavishya Nidhi Bhawan, 28, Community Centre, Wazirpur Industrial Area, Delhi-110052
Website / वेबसाइट www.epfindia.gov.in दूरभाष: 011-27376772 फैक्स: 011-27376777

Ref: No.DL/CPM/14582 /7Q/2025 51· 1046 Date: , .2025

28 JUL 2025

<u>Order under Section 7Q of the EPF & MP Act, 1952 in respect of M/s Anand And Company, 15/32 East Punjabi Bagh, New Delhi – 110026, having PF code number DL/CPM/14582 for levy of Interest-for certain months for remittance made during the period 11/01/2020 to 31/03/2024</u>

Whereas **M/s <u>Aanand And Company, New Delhi-110026</u>** (hereinafter referred to as *'the establishment'*) is an establishment covered under the Employees Provident Fund & Miscellaneous Act, 1952 (herein after referred to as *'the Act'*) and is allotted **Code No. DL/CPM/14582.**

The employer in relation the establishment is requrad to pay:

I Provident Fund Contributions under Section 6 of the Act.
II Employees' Pension Fund Contributions under Section 6A of the Act.
III EDLI contributions under Section 6C of the Act.
IV Administrative charges under Para 38 of the EPF Scheme, 1952.
V Administrative charges under Para 8 of EDLI Scheme, 1976.

However, the employer had failed to remit the above contributions/administrative charges within the prescribed time limit for certain months for remittance made during the period **<u>11/01/2020 to 31/03/2024.</u>**

In accordance with the provisions of the Act, vide summon No. **DL/CPM/14582/Compliance-IV/Interest/107/1026 dated 20.06.2024** was issued to the employer under Section 7Q of the Act.

A month wise and account wise statement of late payment was also annexed to enable establishment to cross varify its records. The employer was asked to represent its case on **27.06.2024.**

The section 7Q of the EPF & MP Act 1952 is reproduced below for reference:

"7Q The employer shall be liable to pay simple interest at the rate of twelve per cent per annum or at such higher rate as may be specified in the Scheme on any amount due from him under this Act form the date on which the amount has become so due till the date of its actual payment: Provided that higher rate of interest specified in the Scheme shall not exceed the lending rate of interest charged by any scheduled bank".

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Pursuant to issue of the Notice dated 20.06.2024, the hearing in the case was held on 27.06.2024, 15.07.2024, 31.07.2024, 04.09.2024, 19.09.2024, 03.10.2024, 24.10.2024, but none appeared on behalf of the establishment. The case was further adjourned to 18.11.2024.

And WHEREAS, on 18.11.2024, Sh. Raman Kumar Thakur appeared on behalf of the establishment with authority letter. The Authorized Representative (AR) requested for some more time for verification of records. The request of the AR was acceded to, and the case was adjourned for next date of hearing on 03.12.2024. On 03.12.2024, proceedings could not be held due to official exigencies, hence the case was rescheduled to 23.12.2024.

And WHEREAS, on 23.12.2024, Sh. Raman Kumar Thakur appeared on behalf of the establishment. The AR stated that he has verified the payment made by the establishment and agreed to the belated remittance to have been made by the establishment as indicated in annexure. Thereafter, the case was adjourned on few occasions and the final hearing was held on 17.07.2025.

And WHEREAS, on 17.07.2025, Sh. Raman Kumar Thakur appeared on behalf of the establishment and agreed to pay the dues u/s 7Q of EPF & MP Act, 1952 for the remittance made during the period 11/01/2020 to 31/03/2024. Accordingly, the case was reserved for orders on 17.07.2025.

In the instant matter as observed sufficient opportunity has been given to the establishment for making its submission and avail the opportunity of being heard, however no counter has been made by the establishment in this regard.

It is to be noted that the Act provides that PF dues should be deposited within time and admittedly the establishment failed to pay within time on various occasions (regularly for several wage months during the notice period) and in absence of any satisfactory explanation, it can safely be concluded that the establishment has intentionally failed to pay the dues within time. The action of the establishment is against the intent and purpose of the Act.

In such circumstances of the blameworthy conduct and active mismanagement of the said establishment, it would be just and logical that Interest as per the rates prescribed under the Act & Schemes there under are levied on the dues deposited belatedly during the period **11/01/2020 to 31/03/2024.**

Now, therefore, in the light of forgoing conclusion and after considering the submissions made during the hearing, I, Kumar Shiladitya, Regional PF Commissioner-II, RO Delhi (North) in the exercises of the power conferred on me under Section 7Q of the Act, think fit and accordingly order for levy of Interest amounting to Rs.4079979/- (Rs. Forty Lakh Seventy-Nine Thousand Nine Hundred Seventy-Nine Only) on establishment M/s Anand And Company, 18/32 East Punjabi Bagh, New Delhi – 110026, details of which are given in schedule hereunder.

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Schedule of Interest u/s 7Q of the Act payable by the establishment

	A/c -1	A/c-2	A/c-10	A/c-21	A/c-22	Total
Total Demand	2651181	62428	1268850	77520	0	4079979
Already Paid	0	0	0	0	0	0
Outstanding Dues	2651181	62428	1268850	77520	0	4079979

The order is without prejudice to the levy of Interest for any period of default or any other default for this period.

(KUMAR SHILADITYA)
Regional P.F Commissioner-II
Delhi (North)

(emphasis supplied)

12. Perusal of the aforesaid order shows that after issuance of show cause notice dated 20.06.2024, sufficient opportunity was given to the petitioner for making submission, however, no counter/response was made by the petitioner and the aforesaid order was passed as the authorised representative of the petitioner had appeared before learned EPFO and agreed to pay dues under Section 7Q of the EPF & MP Act for remittance.

13. As noted hereinbefore, learned Tribunal can entertain appeal against an order under Section 7Q of the EPF & MP Act, in case, there is challenge to the computation error in calculating the amount of interest by the Authority/Assessing Officer. As pointed out hereinbefore, in the present case, the calculations of interest were provided to the petitioner at the time of show cause notice dated 20.06.2024 and no dispute with regard to same was ever raised which can now be agitated. Plea of the petitioner that calculations were not provided is contrary to the records of the case. Thus, the limited scope for the learned Tribunal to entertain an appeal of an order passed under Section 7Q of the EPF & MP Act is not available to the petitioner.

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14. In view of the aforesaid discussion and in facts and circumstances of the present case, this Court does not find any illegality, infirmity and perversity in the order dated 12.09.2025 passed by learned CGIT in Appeal No. D-1/36/2025 and the same does not need any interference.

15. The present petition is dismissed and disposed of.

16. Pending applications, if any, also stand disposed of accordingly.

17. Order be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA, J

DECEMBER 4, 2025/*bsr/ns*

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