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

% *Date of Decision: 18.05.2026*

\+ **LPA 376/2026, CM APPL. 33554/2026 & CM APPL. 33555/2026**

MAHAGUN INDIA PVT LIMITED .....Appellant

Through: Mr. S.K. Gupta & Mr. Raj Kumar, Advocates.

Versus

REGIONAL PROVIDENT FUND COMMISSIONER .....Respondent

Through: Mr. Braja Bandhu Pradhan, Advocate.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA

TEJAS KARIA, J. (*Oral*)

1. The present Letters Patent Appeal is directed against the Judgment and Order dated 04.05.2026 (**"Impugned Order"**) passed in W.P.(C) No.3368/2026 ("**Writ Petition**") whereby the Writ Petition filed by the Appellant came to be dismissed.

2. The Appellant had filed the Writ Petition challenging the order dated 01.12.2025 passed by the learned Central Government Industrial Tribunal-cum-Employees Provident Fund Appellant Tribunal, Delhi ("**Tribunal**") in Appeal No.D-1/23/2024 ("**Appeal"**) on an Application under Section 7-O of the Employee's Provident Funds and Miscellaneous Provisions Act, 1952 (**"Act"**).

3. The Appellant is a company incorporated under the Companies Act and is governed by the provisions of the Act. By order dated 12.01.2024

(**"Order"**), the Respondent, in exercise of powers under Section 7A of the Act, determined provident fund dues payable by the Appellant in the sum of ₹6,27,44,486/- for the period from April 2018 to December 2021. The Order was received by the Appellant on 26.03.2024. Thereafter, on 22.04.2024, the Appellant preferred an appeal under Section 7-I of the Act before the learned Tribunal. Along with the Appeal, the Appellant also filed an application under Section 7-O of the Act seeking waiver of the requirement to pre-deposit 75% of the amount determined under Section 7A of the Act as a condition precedent for entertaining the Appeal.

4. In the said application, the Appellant submitted before the Tribunal that it had established a *prima facie* case and that the Respondent had passed the Order without due consideration of the submissions advanced on its behalf. It was further contended that the Order was contrary to the provisions of the Act, *inter alia*, on the ground that it had been passed without identification of any actual beneficiaries. The Appellant also urged that no opportunity had been afforded to it to cross-examine the Enforcement Officer, who had assessed the dues on an *ad hoc* basis. Additionally, the Appellant submitted that it was facing financial hardship in depositing the amount in question and, accordingly, sought exemption under Section 7-O of the Act.

5. The Respondent opposed the aforesaid application filed by the Appellant under Section 7-O of the Act and contended that the Appellant was required to deposit at least 75% of the assessed amount in terms of the said provision.

6. Upon considering the submissions advanced on behalf of the parties, the learned Tribunal observed that, since the Appeal was at the initial stage of admission and, in the overall circumstances where the beneficiaries were unidentifiable, a case for grant of total waiver of the pre-deposit was not made out. Nevertheless, having regard to the facts and circumstances of the case, the learned Tribunal directed the Appellant to deposit 40% of the assessed amount by way of a Fixed Deposit Receipt ("**FDR**").

7. Aggrieved by the Order, the Appellant preferred the Writ Petition. The principal grievance urged before the learned Single Judge was that the learned Tribunal had passed the Order after an unexplained delay of 138 days from the conclusion of arguments, without fixing any date for pronouncement, without maintaining any proceedings or order sheet dated 16.07.2025, and without considering the detailed written submissions and judicial precedents relied upon by the Appellant.

8. It was the Appellant's case in the Writ Petition that two materially contradictory Enforcement Officers' Reports formed part of the record. The first report, dated 03.11.2021 and submitted by Mr. Sukhwant Singh, Enforcement Officer, assessed the alleged dues at Rs.66,85,649/-, whereas the subsequent report, dated 14.12.2023 and submitted by another Enforcement Officer, assessed the alleged dues at Rs.6,27,44,486/-, being more than ten times the earlier assessment. The Appellant further submitted before the learned Single Judge that neither of the said Enforcement Officers had been examined during the proceedings under Section 7A of the Act.

9. The Appellant also urged before the learned Single Judge that the Order stood vitiated on account of non-identification of beneficiaries, denial

of an opportunity to cross-examine the Enforcement Officers, failure to summon the contractors or sub-contractors along with their records, *ad hoc* and arbitrary assessment of the alleged dues, complete non-application of mind, and the passing of a non-speaking and unreasoned order contrary to settled judicial precedents.

10. The learned Single Judge, in the Impugned Order, observed that although arguments in the application filed by the Appellant under Section 7-O of the Act were heard on 16.07.2025, the Order came to be passed on 01.12.2025, as some time would necessarily have been taken in preparing the same. It was further observed that the Appellant's contention that the Order was bad in law merely because each and every contention raised on its behalf had not been expressly reflected therein was devoid of merit.

11. The learned Single Judge further observed that the Order took into account the relevant facts and circumstances and granted substantial relief to the Appellant by requiring deposit of only 40% of the total assessed amount, by way of an FDR. Accordingly, the learned Single Judge held in the Impugned Order that, having obtained substantial relief from the learned Tribunal, it was incongruous for the Appellant to be aggrieved by the said Order.

12. The learned Single Judge ultimately concluded in the Impugned Order that in the totality of the circumstances, there was no infirmity in the Order and that no interference was warranted with the well-reasoned exercise of discretion by the learned Tribunal. Accordingly, the Writ Petition was dismissed by the Impugned Order.

13. Being aggrieved by the Impugned Order, the Appellant has filed the present Appeal.

14. Learned counsel for the Appellant submitted that, in dismissing the Writ Petition, the learned Single Judge failed to appreciate that the Order passed by the learned Tribunal was contrary to Order XX Rule 1 of the Code of Civil Procedure, 1908, as well as binding judicial precedents.

15. Learned counsel for the Appellant further submitted that the learned Single Judge failed to appreciate that the learned Tribunal had mechanically directed pre-deposit of 40% of the demanded amount without recording any cogent reasons, notwithstanding the existence of serious jurisdictional, procedural, and factual infirmities in the proceedings under Section 7A of the Act.

16. Learned counsel for the Appellant placed reliance on the decision of the Supreme Court in ***Anil Rai v. State of Bihar, (2001) 7 SCC 318***, wherein guidelines regarding the timely pronouncement of judgments have been laid down. It was submitted that the delay in pronouncement of the Order had vitiated the proceedings before the learned Tribunal.

17. Learned counsel for the Respondent submitted that the Appeal preferred by the Appellant before the learned Tribunal had already been dismissed *vide* order dated 29.04.2026 on account of the Appellant's failure to comply with the Order and the mandatory requirement of pre-deposit under Section 7-O of the Act.

18. We have heard the learned Counsel for the Appellant and learned Counsel for the Respondent.

19. Section 7-O of the Act reads as under:

> *"**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."*

20. From the aforesaid provision, it is evident that the learned Tribunal is vested with the discretion to waive or reduce the requirement of deposit of 75% of the amount determined under Section 7A of the Act as a condition precedent for entertaining the Appeal. Any reduction of the mandatory pre-deposit must be supported by reasons recorded in writing by the learned Tribunal.

21. In the present case, the learned Tribunal has furnished reasons for reducing the pre-deposit from 75% to 40% in the Order. The learned Tribunal duly recorded the submissions advanced on behalf of both parties and, upon considering the overall circumstances, particularly the non-identifiability of the beneficiaries, concluded that no case for grant of total waiver was made out. Accordingly, the Appellant was directed to deposit 40% of the assessed amount by way of an FDR.

22. The Appellant's contention regarding delay in pronouncement of the Order after conclusion of the hearing is without merit, and the observations in ***Anil Rai*** (*supra*) are inapplicable to the facts of the present case. Insofar as the grievance concerning denial of cross-examination of the Enforcement Officers, failure to summon the contractors or sub-contractors along with

their records, and allied contentions is concerned, the same are matters to be considered at the stage of final hearing of the Appeal and not at the stage of adjudication of waiver or reduction of pre-deposit. Further, while considering the request for waiver, the learned Tribunal granted substantial relief to the Appellant by reducing the pre-deposit from 75% to 40%, having regard to the overall circumstances, including the non-identification of beneficiaries and the manner in which the dues were assessed by the Respondent. In these circumstances, the Appellant's submission that the Order is non-speaking or unreasoned cannot be accepted.

23. Likewise, the Impugned Order has considered the submissions advanced by the Appellant before the learned Single Judge and has rightly concluded that the same were devoid of merit. The Impugned Order further records that the Order had taken into consideration the relevant facts and circumstances while granting substantial relief to the Appellant by reducing the amount required to be deposited from 75% to 40%.

24. The determination of the quantum of pre-deposit is a matter resting within the discretion of the learned Tribunal, to be exercised in light of the facts and circumstances of each case. Such exercise of discretion cannot ordinarily be interfered with in writ jurisdiction under Articles 226 and 227 of the Constitution of India, 1950, unless the order granting waiver or reduction of pre-deposit is shown to suffer from perversity or manifest illegality.

25. In the facts of the present case, the Appellant has failed to make out any ground warranting interference with the Order passed by the learned Tribunal granting reduction in its favour. In any event, the Appeal filed

before the learned Tribunal already stands dismissed *vide* order dated 29.04.2026 on account of non-compliance with the requirement of Section 7-O of the Act, the Appellant having failed to deposit the amount as directed by the Order. Consequently, the present Appeal has, in any case, become infructuous.

26. Accordingly, no interference with the Impugned Order, which affirms the Order passed by the learned Tribunal, is called for. The present Appeal, along with all pending applications, is therefore dismissed. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

MAY 18, 2026
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