2026:DHC:7623

# IN THE HIGH COURT OF DELHI AT NEW DELHI

% ***Judgment reserved on:24.07.2026***
***Judgment pronounced on:08.09.2026***
***Judgment uploaded on: 08.09.2026***

\# **CNR No. DLHC010688712005**
\+ **W.P.(C) 23005/2005**

**N.I.I.T. LTD.** ..... Petitioner

versus

**REGIONAL PROVIDENT FUND COMMISSIONER** ..... Respondent

**Advocates who appeared in this case:**

For the Petitioner : Mr. Alok Bhasin and Mr. Kamal Kant Tyagi, Advocates

For the Respondent : Mr. Manu Parashar, Advocate

**CORAM**
**HON'BLE MR JUSTICE AMIT MAHAJAN**

## J U D G M E N T

1. The present petition is filed under Article 226 of the Constitution of India seeking quashing of Notice dated 19.10.2005 under Section 7A of the Employees Provident Fund & Miscellaneous Provisions Act, 1952 (hereinafter '***the Act***') issued by the Respondent/Regional Provident Fund Commissioner, Delhi.

2. Succinctly stated, the Petitioner is engaged in the business of providing computer education. It entered into an agreement with the Commissioner for Public Instruction, Karnataka, on 11.12.2000, for providing computer education services in approximately 700 government schools in Karnataka in the "*Mahiti Sindhu*" – 2001-2006 project.

3. The Petitioner entered into facilitation agreements with 23 licensees for the said project, one of which was M/s. Myzas Technologies Pvt. Ltd.

4. Thereafter, in 2004, the Assistant Provident Fund Commissioner, Mangalore initiated proceedings under Section 7A of the Act against M/s. Myzas Technologies Pvt. Ltd. and the Petitioner for the period from March 2001 to July 2004, which were contested by them.

5. During the course of proceedings, M/s. Myzas Technologies Pvt. Ltd. sought impleadment of Government of Karnataka as a party, which was dismissed *vide* Order dated 07.01.2005 passed by the Assistant Provident Fund Commissioner, Mangalore. The same was challenged by M/s. Myzas Technologies Pvt. Ltd. before the High Court of Karnataka by way of a *Writ Petition No. 475/2005*, which was partly allowed and the matter was remanded back to the PF Authorities, Manglore.

6. While the matter was pending consideration, the PF Commissioner issued a letter dated 17.01.2005 to the Commissioner of Public Instructions to stop all payments to the Petitioner, which was

challenged by the Petitioner before the High Court of Karnataka and the same was stayed *vide* Order dated 14.06.2005 passed in *W.P. No. 15298/2005*.

7. On 20.06.2005, M/s. Myzas Technologies Pvt. Ltd. admitted the liability of the PF contributors in respect of the faculty staff. The Proof of withdrawal of the Writ Petition filed by M/s. Myzas Technologies Pvt. Ltd. against the provident Fund Commissioner voluntarily was also filed. Subsequently, in lieu of the above the Assistant Provident Fund Commissioner, Mangalore *vide* order dated 29.06.2005 *discharged the Petitioner* from the Section 7A enquiry pursuant to M/s. Myzas Technologies Pvt. Ltd. having accepted its liability and in view of it's undertaking to comply with the Act.

8. Thereafter, the Assistant Provident Fund Commissioner *vide* Order dated 05.10.2005 held M/s. Myzas Technologies Pvt. Ltd. liable to pay the PF contributions and directed M/s. Myzas Technologies Pvt. Ltd. to remit an amount of ₹16,69,330/- to the accounts of its employees/faculty staff.

9. A Writ Petition was preferred by M/s. Myzas Technologies Pvt. Ltd. against the above order, since this amount of PF contribution determined was disputed by it and the proceedings came to be stayed *vide* order dated 27.10.2005. Then the PF Department, *vide* letter dated 28.10.2005, directed the Petitioner to pay the amount of ₹16,69,330/- on the ground that he was the principal employer. The same was challenged by the Petitioner before the Hon'ble High Court of Karnataka. The PF Department also advised the Government of

Karnataka to stop all payments to the Petitioner, which was assailed by the Petitioner before the High Court of Karnataka and the order of the department was stayed.

10. Despite discharge, the Respondent issued the impugned Notice dated 19.10.2005, under Section 7A of the Act, directing the Petitioner to appear before the Respondent and produce records for determination of dues under the scheme *inter alia* list of all the employees employed directly or through contractors along with PF account no.s allotted and attendance/membership/payment register.

11. Aggrieved thereby, the present petition has been filed.

12. The learned counsel for the Petitioner submits that the entire matter forming part of the impugned notice is sub-judice before the PF Department, Karnataka and thus, the Respondent cannot initiate parallel proceedings for the same subject matter in Delhi.

13. He submits that the Petitioner has already been discharged in the proceedings initiated in Karnataka by the Assistant Provident Fund Commissioner, Mangalore vide order dated 29.06.2005.

14. Reliance has also been placed on Order dated 14.06.2007 passed by the High Court of Karnataka in *W.P. 11139/2006*, to submit that the issue raised already stands resolved and vide the aforementioned order, the Petitioner has been absolved of all liability.

15. The learned counsel for the Respondent vehemently opposes the present petition. He submits that the Petitioner's branch located in Karnataka is refuting to grant PF benefits to the persons employed for the project and have informed that all PF related issues are only

handled by the Delhi branch. Thus, he submits that the Respondent had no other option but to initiate proceedings against the Petitioner in Delhi.

16. Submissions heard and the record perused.

17. A perusal of the record reveals that proceedings under Section 7A of the Act were initially instituted by the Assistant Provident Fund Commissioner, Mangalore, in relation to the Mahiti Sindhu Project undertaken in the State of Karnataka. Significantly, the proceedings were initiated not merely against M/s. Myzas Technologies Pvt. Ltd., but also against the Petitioner. The Petitioner, therefore, was afforded an opportunity to participate in the inquiry before the competent authority.

18. It is an admitted position that during the pendency of the proceedings, M/s. Myzas Technologies Pvt. Ltd. accepted its liability towards provident fund contributions in respect of the faculty engaged by it for the project. Taking note of the said admission, the Assistant Provident Fund Commissioner, Mangalore, vide order dated 29.06.2005, discharged the Petitioner from the inquiry. The Assistant Provident Fund Commissioner, Mangalore, by order dated 05.10.2005, held M/s. Myzas Technologies Pvt. Ltd. liable to remit provident fund contributions amounting to ₹16,69,330/- (as already a sum of Rs. 3,73,707/- was remitted by M/s Myzas out of the total assessed liability of Rs. 20,43,037/-) in respect of its employees.

19. Thus, the issue relating to determination of liability under the Act, insofar as the employees engaged through M/s. Myzas

Technologies Pvt. Ltd. were concerned, had already been examined by the competent authority. The Petitioner was consciously discharged from the proceedings after the authority accepted the position that the statutory liability was to be borne by M/s. Myzas Technologies Pvt. Ltd.

20. It is not the case of the Respondent that the order dated 29.06.2005 has either been challenged before any competent forum or otherwise stands set aside. Consequently, the said order continued to operate and bind the parties.

21. Notably, as per the Counter Affidavit filed by the Respondent, *W.P. No. 24012/2005* was filed by M/s. Myzas Technologies Pvt. Ltd. against the order dated 05.10.2025. The assessment was of Rs. 20,43,037/- out of which Petitioner therein had paid Rs. 3,73,707/- and the balance of Rs. 16,69,330/- remained. The High Court of Karnataka stayed the proceedings, on the Petitioner therein i.e. M/s. Myzas again remitting an amount of Rs. 3,00,000/-. Another *W.P. No. 27499/2025* was filed before High Court of Karnataka by M/s. Avadi Computers Pvt. Ltd. assailing the Notice under Section 7-A issued when M/s Avadi Computers Pvt. Ltd. had defaulted in payment of the employee's share of the PF. The *W.P. No. 26875/2005* was filed by M/s Insoft Technologies Pvt. Ltd. challenging an Order dated 28.10.2005, *vide* which liability of Rs. 10,64,219/- was assessed under Section 7-A. The order was stayed subject to deposition of Rs. 3,00,000/- by the Petitioner therein. Additionally, W.P. No. 1139/2006 was also filed before the High Court of Karnatak by the

Petitioner/NIIT against Employees Provident Fund Organization, Hubli, assailing the order dated 07.07.2006 passed by Employees Provident Fund Organization on the ground that no enquiry is liable to be initiated against the Petitioner when the main defaulter is the service provider i.e. M/s Kamath Srininvas Computers Pvt. Ltd. The Petitioner was undisputedly absolved of all liability *vide* order dated 14.06.2006.

22. Admittedly, all these petitions have been filed before the High Court of Karnataka.

23. The record indicates that the Mahiti Sindhu Project was implemented through several licensees/facilitators and proceedings under Section 7A came to be initiated in respect of different facilitators. Various assessment orders and proceedings arising therefrom became the subject matter of challenge before the High Court of Karnataka. Thus, the disputes relating to provident fund liability arising from the Mahiti Sindhu Project were already engaging the attention of the Provident Fund Authorities and the High Court of Karnataka. The Respondent itself has referred to multiple writ petitions arising from such proceedings before the High Court of Karnataka. Thus, the authorities in Karnataka had already assumed jurisdiction over disputes emanating from the implementation of the Mahiti Sindhu Project.

24. Notwithstanding the aforesaid position, the Respondent proceeded to issue the impugned Notice dated 19.10.2005 requiring the Petitioner to once again produce records for determination of

provident fund dues in respect of the very same establishment and the very same project in Karnataka. Additionally, the impugned Notice does not advert to the proceedings conducted at Karnataka or the previous discharge of the Petitioner. The impugned notice dated 19.10.2005, proceeds on the basis of the very same agreement entered into between the Petitioner and the Government of Karnataka and seeks production of records relating to employees engaged directly as well as through contractors for determination of provident fund dues under Section 7A of the Act. The Respondent has not disputed that it was aware of the proceedings pending before the Provident Fund Authorities in Karnataka. In fact, this Court, by order dated 12.10.2022, had specifically called upon the Respondent to indicate whether, in view of those proceedings, it intended to continue with the impugned enquiry.

25. The Affidavit filed pursuant thereto merely reiterates the Respondent's intention to proceed and refers to the pendency of proceedings concerning different facilitators before the Karnataka authorities. The submission advanced on behalf of the Respondent that the Petitioner's office at Karnataka had informed the authorities that provident fund matters were being dealt with by the Delhi office cannot justify the initiation of parallel proceedings. Merely because the Petitioner's registered office or another establishment falls within the territorial jurisdiction of the Respondent would not, by itself, empower the Respondent to reopen an issue which had already been examined by the competent authority exercising jurisdiction over the

establishment where the employees were engaged and where the inquiry had culminated in a final determination or initiate parallel proceedings/inquiry.

26. This Court is, therefore, of the considered opinion that once the Petitioner had been discharged from the inquiry by the competent authority and the liability had been specifically fastened upon M/s. Myzas Technologies Pvt. Ltd., there remained no occasion for the Respondent to initiate fresh proceedings against the Petitioner in respect of the very same subject matter, in Delhi, when the matter is already sub-judice before the Karnataka PF Authorities.

27. Accordingly, the Notice dated 19.10.2005 issued by the respondent under Section 7A of the Act, is hereby quashed.

28. Since the impugned notice itself is quashed on the aforesaid grounds, the question whether the Petitioner is the principal employer under the Act is rendered academic and is not examined.

29. The writ petition is allowed in the aforesaid terms. Pending applications, if any, also stand disposed of.

**AMIT MAHAJAN, J**

**SEPTEMBER 8, 2026**

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