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

% Date of Decision: 22.01.2026

\+ **W.P.(C) 3824/2022**

THE REGIONAL PROVIDENT
FUND COMMISSIONER .....Petitioner
Through: Mr. Braja Bandhu Pradhan, Advocate.

versus

M/S. APRA AUTO (INDIA) PVT. LTD. .....Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present petition has been filed seeking setting aside of the order dated 08.04.2021 passed by the Presiding Officer, Central Government Industrial Tribunal-cum-Labor Court-II, Rouse Avenue, *Delhi* (hereinafter "the Tribunal") whereby, while appreciating the appeal, the order passed under Section 14B of The Employees' Provident Funds And Miscellaneous Provisions Act, 1952 (hereinafter "the EPF and MP Act") was set aside.

2. Notably, despite being served, the respondent did not appear in the underlying proceedings before RPFC *Gurgaon* and was proceeded *ex parte* on 05.05.2015. Even in the present proceedings, efforts to serve the respondent remained futile and substituted service was directed. The necessary publications were carried out, and an affidavit of service was also filed.

3. The petitioner has claimed that initially, the concerned officer had passed an order on 27.03.2018 under Sections 14B and 7Q of the EPF & MP Act whereby it had assessed the payable dues and directed the respondent to pay a sum

of Rs.16,38,313/- towards damages under Section 14B as well as Rs.8,00,7899/- towards interest under Section 7Q, for delayed remittance of EPF dues of its employees for the period between March 2014 and June 2015. The respondent challenged the said order by way of an appeal filed on 04.02.2020, and the said proceedings resulted in the issuance of the impugned order.

4. The petitioner has challenged the impugned order on the ground that the appeal filed by the respondent was barred by time and the Tribunal had no power to condone the delay, as well as on the ground that the impugned order erred in recording that the appellant could not establish *mens rea* on the part of the respondent.

5. Insofar as the first contention is concerned, it is pertinent to note that Rule 7 of the Tribunal (Procedure) Rules, 1997 ("the CGIT Rules") prescribe a time limit of 60 days for assailing any order by way of an appeal to the Tribunal. The Tribunal has also been empowered, on being satisfied that the appellant was prevented by sufficient cause from preferring an appeal within the prescribed period, to extend the said period by a further period of 60 days. In this regard, Rule 7 of the CGIT Rules reads as under:-

> "*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."

6. It is trite law that when a special statute provides a specific limitation period and limited power to condone delay beyond the said period, the provisions of the Limitation Act, 1963 do not apply. A gainful reference in this regard may be made to the decision of the Division Bench of this Court in *Assistant Regional Provident Fund Commissioner Vs. Employees' Provident Appellate Tribunal & Ors.*[1], wherein it was held that that in view of the specific mandate under Rule 7(2), the Tribunal has no power to condone delay beyond 120 days. The relevant portion is reproduced hereunder:-

"*15. With a view to see that the proceedings are disposed of as early as possible, it was left by the Legislature to fix "such time" for preferring an appeal. Section 21(2)(b) refers to the time within which an appeal shall be filed and in view of this it was submitted that in absence of any power, it was not open to prescribe a specific period for condonation of delay in Sub-Rule (2) of Rule 7 of the Act in exercise of the powers conferred under Sub-sec. (1) of S. 21 of the Act.*

16. The Legislature left it open to the rule making authority to prescribe time for preferring an appeal. However, at the same time the rule making authority while prescribing the period of limitation for preferring an appeal also provided a period during which if there is a delay, the same can be condoned if the Tribunal is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the prescribed period. However, the limitation was placed that that can be done if there is a delay of a further period of 60 days.

17. In our opinion, it cannot be said that the rule making authority has exceeded its limit while prescribing the period of limitation. Like the provisions in other statutes for condoning the delay, the rule making authority thought it fit to provide some period if there is a sufficient cause and the Tribunal is satisfied that the applicant was prevented from preferring the appeal on such cause to extend the period of limitation. This provision is an enabling provision. It does not take away

[1] 2005 SCC OnLine Del 799

the right of a person of preferring an appeal but on the contrary it enables a party who could not prefer an appeal within the prescribed period for sufficient reasons. However, at the same time, keeping in mind that provision is made for a weaker section, disputes must be resolved at the earliest, therefore, restricted the period, i.e., that if the delay is of 60 days then to that extent delay can be condoned. Therefore, in our opinion, the provision cannot be said to be ultra vires of the provisions of the Act as the provision for condonation of delay is made to help the litigant who might be facing genuine difficulties. It is difficult to say that the proviso to Sub-Rule (2) of Rule 7 is bad. If that is declared as bad or ultra vires S. 7-I or S. 21(1)(b) of the Act, it can be said that the period of limitation prescribed is bad for want of not providing extended period in case of difficulty."

7. Further reference may be made to the decision in *Saint Soldier Modern Senior Secondary School Vs. Regional Provident Fund Commissioner*[2], wherein the Division Bench of this Court held as under:-

"*10. Undisputedly, the Act is a special law within the meaning of Section 29(2) of the Limitation Act. Under the normal circumstances, the provisions of Section 29(2) and consequentially Sections 4 to 24 of the Limitation Act would be applicable to the appellate proceedings under the said Act. However, in view of the provisions of the law comprised under Section 29(2) itself, such applicability is subject to three conditions; one of which is that the provisions of law contained in that regard in the special Act should not expressly or by necessary implication exclude the applicability of all or any of the provisions of the Sections referred to in Section 29 of the Limitation Act to the proceedings under the Special Act. Proviso to Rule 7(2) prescribes restriction on the power of the appellate authority thereunder to extend the period beyond the period of 60 days after the expiry of the initial period of limitation of 60 days prescribed for filing the appeal under the Act. It specifically states that if the appellant satisfies the appellate authority that he was prevented by sufficient cause from preferring the appeal within the prescribed period of 60 days, the period can be extended by further period of 60 days. This clearly indicates an intention of the Legislature to restrict the period of extension upto the limit of 60 days beyond the prescribed period of 60 days for filing an appeal under the Act. In other words, the total period including the extended period to prefer an appeal would be upto 120 days and not more than that. Apparently, it prohibited the Tribunal to entertain the appeal beyond the total period of 120 days from the date of receipt of the order.*"

[2] 2014 SCC OnLine Del 4496

8. In the present case, the order passed by RPFC *Gurgaon* is dated 27.03.2018, and the appeal before CGIT was filed on 04.02.2020, which is more than a year beyond the maximum 120-day period allowed by the CGIT Rules for filing of an appeal. It is evident therefore that the Tribunal erred in condoning the delay and entertaining the respondent's appeal. Needless to say, the impugned order is liable to be set aside on this ground alone.

9. The second contention raised by the petitioner is that the Tribunal erred by holding that the absence of *mens rea* on the part of respondent invalidated the imposition of damages under Section 14B of the EPF and MP Act. The Tribunal reached this decision, in part, on the basis of the Supreme Court's decision in *McLeod Russel India Limited Vs. Regional Provident Fund Commissioner, Jalpaiguri & Ors.*[3] However, in this regard, it is sufficient to refer to the recent decision of the Supreme Court in *Horticulture Experiment Station Gonikoppal, Coorg Vs. Regional Provident Fund Organization*[4], wherein, while distinguishing *McLeod Russel* (*supra*), the law was expounded upon and the position of law was conclusively laid down, that default or delay in payment of EPF contributions by the employer is sufficient for imposition of damages under Section 14B of the EPF and MP Act, and *mens rea* or *actus reus* is not essential for imposing penalty/damages for breach of civil obligations and liabilities.

10. Keeping in view the facts and law as noted above, this Court is of the considered view that the impugned order passed by the Tribunal cannot stand.

[3] (2014) 15 SCC 263
[4] (2022) 4 SCC 516

11. Accordingly, the present writ petition is allowed, and the impugned order is set aside. The order dated 27.03.2018 passed by RPFC *Gurgaon* is reinstated.

12. The present writ petition is disposed of in the above terms.

MANOJ KUMAR OHRI
(JUDGE)

JANUARY 22, 2026/*nb*