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

% ***Judgment pronounced on: 01.07.2026***

\+ **W.P.(C) 10916/2025 and CM APPLs.45013/2025, 45014/2025**

M S VIHANGAM SECURITY SERVICES PVT LTD .....Petitioner
Through: Mr. Santosh Chaurihaa, Adv.

versus

THE REGIONAL PROVIDENT FUND COMMISSIONER II .....Respondent
Through: Mr. Shivanath Mahanta, Adv.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT

1. The present writ petition has been filed under Articles 226 and 227 of the Constitution of India, assailing the order dated 05.03.2025 passed by the Central Government Industrial Tribunal cum Labour Court, Delhi (hereinafter "Tribunal") whereby the petitioner's appeal against the order dated 28.02.2024 passed by the Regional Provident Fund Commissioner (hereinafter "respondent authority") has been dismissed on the ground of limitation. Moreover, *vide* the subsequent order dated 08.07.2025 passed by Tribunal, the review application preferred by the petitioner against the aforesaid order dated 05.03.2025 has also been dismissed.

2. The controversy lies in a narrow compass. The primary question that arises for consideration is whether the Tribunal was justified in declining to condone the delay in filing the appeal.

FACTUAL MATRIX

3. The petitioner establishment is a covered establishment under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter "EPF & MP Act, 1952"), and is engaged in the business of providing manpower services for security guard services to its different clients on a contractual basis.

4. On 04.10.2023, the respondent authority is stated to have issued a show cause notice bearing No. DL/CPM/1447353/000/Enf 663/Damages/IX/109/566 to the petitioner establishment, calling upon it to explain, within a period of fifteen days, as to why damages under Section 14B of the EPF & MP Act, 1952 should not be levied, on account of its alleged wilful default in remitting the monthly EPF contributions for the period from February 2016 to June 2023.

5. Thereafter, on 20.10.2023, an official of the petitioner establishment appeared before the respondent authority and sought time to verify and respond. The matter was accordingly adjourned on several occasions up to early February 2024; however, the petitioner establishment remained unrepresented on all subsequent dates of hearing.

6. On 28.02.2024, the respondent authority proceeded to pass two *ex parte* orders under Sections 14B and 7Q of the EPF & MP Act, 1952, whereby damages along with interest, aggregating to Rs. 30,29,425/-, were levied upon the petitioner. The said orders are reproduced hereunder:

ईपीएफओ दिल्ली पश्चिम
EPFO DELHI WEST
श्रम एवं रोजगार मंत्रालय, भारत सरकार
MINISTRY OF LABOUR & EMPLOYMENT
GOVERNMENT OF INDIA

सत्यमेव जयते

28

No. RO/DL(W)/DLCPM/1447353/Damages -IX/14B/284/1044A **Dated:** 28 FEB 2024

ORDER

"Levy of Damages under Section 14B of the EPF & MP ACT, 1952 and the Schemes framed there under in respect of M/s. Vihangam Security Services Private Limited, [DLCPM/1447353] for the delay period from 02/2016 to 06/2023".

A notice was issued to the establishment by the Regional Provident Fund Commissioner vide Notice **No.DL/CPM/1447353/000/Enf 663/Damages/IX/109/566 dated 04/10/2023** to show cause within fifteen days as to why **Damages of Rs. 1948280/-** as envisaged under Section 14B of the Act be not recovered by way of penalty from the establishment/employer and an opportunity of personal hearing was also afforded on **20/10/2023**.

On hearing dated 20.10.2023, Mr. Abhay Kumar Pandey appeared on behalf of the establishment. He requested for some time to verify the delay mentioned in summon. Based on request, time was granted and the next date of hearings fixed for 09.11.2023. The case was adjourned for several occasion i.e. 09.11.2023, 07.12.2023, 10.01.2024, 24.01.2024 & 08.02.2024 in the interest of natural justice. However, no representation/submission received from employer in this regard. Therefore, it is understood that the establishment has nothing to say further in the matter hence the enquiry stands concluded ex-parte.

In view of the above, I, Ravi Shukla, Regional Provident Fund Commissioner-II, Delhi (West), in exercise of the powers conferred on me under Section 14B of the Act, after applying my mind to the case facts that have been brought before me through proceedings & record verifications, think fit and hereby levy the following amounts (Account wise) for the belated payment of dues under consideration in accordance with the notified rates as envisaged under Para 32A of the EPF Scheme, 1952; Para 5 of EPS Scheme, 1995 & Para 8A of EDLI Scheme, 1976.

The following Penal Damages have been calculated (Account – wise) below by taking into account the date on which contribution/remittance is due and the date on which instrument is presented to official banker of EPFO.

Under Section	A/c - I	A/c - II	A/c - X	A/c - XXI	A/c - XXII	Total
Penal Damages (14B)	1299275	41943	568573	38192	297	1948280

(Rupees: Nineteen Lac Forty-Eight Thousand Two Hundred and Eighty Only)

I order the employer in relation to the establishment to deposit the above said amount account – wise for the period 02/2016 to 06/2023 as specified above not later than 15 days failing which Section 8B to 8G of the Act shall be invoked. A copy of challan in proof of remittance must be submitted.

However, at later stage, in case any other remittance found to be delayed and escaped from this notice of the Department, the Department reserves the right to initiate separate further enquiry to levy damages under Section 14B of the Act.

Issue under my hand and seal on 28th day of Feb 2024.

[RAVI SHUKLA]
Regional Provident Fund Commissioner-II

Encl :- A copy of signed Annexure mentioning month wise, amount wise, challan wise details of Damages under Section 14B of the Act.

To

M/s. Vihangam Security Services Private Limited
Plot No 24/2 KH NI 33/21 N S Block, Ranaji Enclave Najafgarh Road,
Delhi- 110043.

ईपीएफओ दिल्ली पश्चिम
EPFO DELHI WEST
श्रम एवं रोजगार मंत्रालय, भारत सरकार
MINISTRY OF LABOUR & EMPLOYMENT
GOVERNMENT OF INDIA

सत्यमेव जयते

29

No. RO/DL(W)/DLCPM/1447353/Damages -IX/7Q/284/1044 **Dated :** 28 FEB 2024

ORDER

"Interest under Section 7Q of the EPF & MP ACT, 1952 and the Schemes framed there under in respect of M/s. Vihangam Security Services Private Limited, [DLCPM/1447353/ for the delay period from 02/2016 to 06/2023".

A notice was issued to the establishment by the Regional Provident Fund Commissioner vide Notice **No.DL/CPM/1447353/000/Enf 663/Damages/IX/109/566 dated 04/10/2023** to show cause within fifteen days as to why **Interest of Rs. 1081145/-** as envisaged under Section 7Q of the Act be not recovered from the establishment/employer and an opportunity of personal hearing was also afforded on **20/10/2023**.

On hearing dated 20.10.2023, Mr. Abhay Kumar Pandey appeared on behalf of the establishment. He requested for some time to verify the delay mentioned in summon. Based on request, time was granted and the next date of hearings fixed for 09.11.2023. The case was adjourned for several occasion i.e. 09.11.2023, 07.12.2023, 10.01.2024, 24.01.2024 & 08.02.2024 in the interest of natural justice. However, no representation/submission received from employer in this regard. Therefore, it is understood that the establishment has nothing to say further in the matter hence the enquiry stands concluded **ex-parte**.

In view of the above, I, Ravi Shukla, Regional Provident Fund Commissioner-II, Delhi (West), in exercise of the powers conferred on me under Section7Q of the Act, after applying my mind to the case facts that have been brought before me through proceedings & record verifications, think fit and hereby levy the following amounts (Account wise) for the belated payment of dues under consideration in accordance with the notified rates as envisaged under Para 32A of the EPF Scheme, 1952; Para 5 of EPS Scheme, 1995 & Para 8A of EDLI Scheme, 1976.

The following Penal Interest has been calculated (Account – wise) below by taking into account the date on which contribution/remittance is due and the date on which instrument is presented to official banker of EPFO.

Under Section	A/c - I	A/c - II	A/c - X	A/c - XXI	A/c - XXII	Total
Interest (7Q)	722002	23490	314282	21219	152	-1081145

(Rupees: Ten Lac Eighty-One Thousand One Hundred and Forty-Five Only)

I order the employer in relation to the establishment to deposit the above said amount account – wise for the period 02/2016 to 06/2023 as specified above not later than 15 days failing which Section 8B to 8G of the Act shall be invoked. A copy of challan in proof of remittance must be submitted.

However, at later stage, in case any other remittance found to be delayed and escaped from this notice of the Department, the Department reserves the right to initiate separate further enquiry of interest under Section 7Q of the Act.

Issue under my hand and seal on 28 day of Feb, 2024.

[RAVI SHUKLA]
Regional Provident Fund Commissioner-II

<u>Encl :-</u> A copy of signed Annexure mentioning month wise, amount wise, challan wise details of Interest under Section 7Q of the Act respectively.

To

M/s. Vihangam Security Services Private Limited
Plot No 24/2 KH NI 33/21 N S Block, Ranaji Enclave Najafgarh Road,
Delhi- 110043.

7. It is not in dispute that the said orders were received by the petitioner

in the first week of March 2024, through postal authorities.

8. Thereafter, on 09.10.2024, the petitioner preferred an appeal before the Tribunal assailing the aforesaid orders dated 28.02.2024 passed by the respondent authority. Along with the appeal, an application seeking condonation of delay was also filed, wherein the petitioner attributed the delay to lack of knowledge regarding the further course of proceedings, including the remedy of filing an appeal before the Tribunal.

9. The Tribunal, upon consideration of the explanation furnished, came to the conclusion that the delay was not supported by sufficient cause and, accordingly, dismissed the application for condonation of delay as well as the appeal itself, *vide* order dated 05.03.2025. The operative portion of the said order reads as under:

> *"Before proceeding further, it is appropriate to go through the provision of Rule 7(2) which are reproduced hereunder*
>
> > *7(2). Fee, time for filing appeal, deposit of amount due on filing appeal.—*
> > *………*
> > *(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.*

From perusal of the above said rule, it is quite apparent that the appeal should have been filed by the appellant within 60 days from the date of passing of the order.' If the appellant demonstrates the sufficient cause for filing the appeal beyond the limit of 60 days, this tribunal has the discretion to condone the delay for another 60 days.
Now coming to the present application, admittedly, the appellant had received the order dated 28.02.2024 in the first week of March 2024. The cause as explained in the application filed for condonation of delay show that the appellant could not file this appeal within time due to lack of his knowledge about the further proceedings after passing of the impugned order. This cannot be considered as a valid ground for condoning the delay in filing of the appeal as ignorance of law is not an excuse.
In view of the above discussion in hand, the present application bearing no. M.A. 132/2024, being devoid of merits is dismissed. Consequent thereto the appeal bearing no. D 1/64/2024 also stands dismissed. Pending application, if any, also stands disposed off. Office is directed to consign the record to the record room."

10. Thereafter, a review application was preferred by the petitioner, wherein the version of the petitioner regarding the delay changed from "lack of knowledge regarding the further course of proceedings" to "negligence on the part of the counsel". The said application also came to be dismissed by the Tribunal *vide* order dated 08.07.2025.

11. Aggrieved thereby, the petitioner has approached this Court, seeking to quash and set aside the order dated 05.03.2025 passed by the Tribunal and thereafter, remand the appeal for consideration on merits.

SUBMISSIONS ON BEHALF OF THE PARTIES

12. Learned counsel for the petitioner submits that the delay in filing the appeal was neither deliberate nor intentional, but occurred on account of lapses attributable to the counsel engaged by the petitioner.

13. It is submitted that the petitioner had furnished all requisite documents and remained under a bona fide belief that the appeal would be filed within the prescribed period. It is contended that the petitioner ought

not to be made to suffer for the fault of its counsel, particularly when it has been diligent in pursuing the matter.

14. It is further submitted that the Tribunal ought to have exercised discretion and adopt a liberal approach while considering the application for condonation of delay, especially in view of the fact that the petitioner has substantial grounds on merits to assail the order passed by the respondent authority under Section 14B of the EPF and MP Act, 1952.

15. Learned counsel for the petitioner also placed reliance upon the order dated 05.10.2021 passed by this Court in ***Priyabrata Maity v. Employees' Provident Fund Organization*** [W.P.(C) 11279/2021], to contend that, in a similar matter, the delay was condoned and the appeal was restored for adjudication on merits.

16. Per contra, the respondent contends that the application for condonation of delay, filed along with the appeal, is not maintainable, as the provisions of the Limitation Act are inapplicable to a special statute such as the EPF & MP Act, 1952. It was submitted that where a specific period of limitation is prescribed under the statute, the appellant cannot take recourse to the Limitation Act.

17. It is also averred that, in any event, the delay is not liable to be condoned, as the application for condonation of delay fails to furnish a day-to-day explanation for the delay.

18. It is contended that, in view of Rule 7(2) of the Employees' Provident Fund Appellate Tribunal (Procedure) Rules, 1997, the Tribunal is empowered to condone delay only to a limited extent, i.e., up to 60 days beyond the statutory period as prescribed in the said Rules, and has no

jurisdiction to entertain an appeal beyond the said period.

ANAYLSIS AND CONCLUSION

19. I have considered the submissions and the material placed on record.

20. The controversy is in a narrow domain. The relevant dates are not in dispute. The orders dated 28.02.2024 passed by the respondent authority, which were sought to be assailed before the Tribunal, were admittedly received by the petitioner in the first week of March 2024. The appeal, however, came to be instituted only on 09.10.2024, i.e., after an inordinate lapse of time.

21. In this backdrop, it becomes necessary to advert to the statutory scheme governing the filing of appeals under the EPF & MP Act, 1952. Section 7-I of the said Act provides for filing of appeals before the Tribunal, while Rule 7(2) of the Employees' Provident Fund Appellate Tribunal (Procedure) Rules, 1997 (hereinafter "the Rules") prescribes the period of limitation. The Rule mandates that an appeal is to be preferred within 60 days, with a further condonable period of 60 days upon sufficient cause being shown. The legislative intent is thus clear in prescribing not only the limitation period but also the outer limit up to which delay can be condoned. The said provisions are reproduced hereunder:

> ***"EPF & MP Act, 1952:***
>
> *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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Employees' Provident Fund Appellate Tribunal (Procedure) Rules, 1997:

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."

22. In the present case, there is admittedly a delay of more than three months in instituting the appeal, over and above the prescribed outer limit (i.e. 120 days). Once the delay exceeds the statutorily prescribed limit, the Tribunal has no power to entertain the appeal. The bar of limitation, in such circumstances, is not merely procedural but goes to the root of (lack of) jurisdiction of the appellate authority.

23. The primary submission on behalf of the petitioner is that the delay occurred on account of lapses on the part of the counsel engaged by it. This Court is mindful of the settled principle that an innocent litigant should not ordinarily be made to suffer for the fault of its counsel. However, to accept

the petitioner's contention would, in effect, amount to enlarging the period of limitation beyond what is statutorily permissible, which is legally untenable.

24. That apart, the explanation furnished by the petitioner does not remain consistent. In the application for condonation of delay filed before the Tribunal, the delay was attributed to lack of knowledge regarding the further course of proceedings, however, in the review application as well as before this Court, the delay is sought to be explained on account of negligence of counsel. The shifting stand adopted by the petitioner detracts from the credibility of the explanation offered and does not inspire confidence.

25. It is also well settled that an application seeking condonation of delay (even assuming that the delay is condonable) must disclose sufficient cause explaining the delay on a day-to-day basis, particularly when the delay is inordinate. In the present case, the application filed by the petitioner is conspicuously silent in this regard and does not furnish any cogent or granular explanation accounting for the day to day delay for the entire period in question.

26. In ***State of Madhya Pradesh v. Ramkumar Choudhary***, **2024 SCC OnLine SC 3612**, the Supreme Court, held as under:

> *"7. There is one another aspect of the matter which we must not ignore or overlook. Over a period of time, we have noticed that whenever there is a plea for condonation of delay be it at the instance of a private litigant or State the delay is sought to be explained right from the time, the limitation starts and if there is a delay of say 2 years or 3 years or 4 years till the end of the same. For example if the period of limitation is 90 days then the party seeking condonation has to explain why it was unable to institute the proceedings within that period of limitation. What events occurred after the 91st day till the last is of no consequence. The court is required to consider what came in the way of the party that it was unable to file it between the 1st day and the 90th day. It is true that a*

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party is entitled to wait until the last day of limitation for filing an appeal. But when it allows the limitation to expire and pleads sufficient cause for not filing the appeal earlier, the sufficient cause must establish that because of some event or circumstance arising before the limitation expired it was not possible to file the appeal within time. No event or circumstance arising after the expiry of limitation can constitute such sufficient cause. There may be events or circumstances subsequent to the expiry of limitation which may further delay the filing of the appeal. But that the limitation has been allowed to expire without the appeal being filed must be traced to a cause arising within the period of limitation. (See: Ajit Singh Thakur Singh and Another v. State of Gujarat, AIR 1981 SC 733).”

27. Further, taking note of the aforementioned decision, the Supreme Court in ***Shivamma (Dead) by Lrs v. Karnataka Housing Board and Ors.,*** 2025 SCC OnLine SC 1969, held as under:

“114. We may, with a view to obviate any confusion, clarify that the observations made by this Court in Ramkumar Choudhary (supra), particularly that “what events occurred after the 91st day till the last is of no consequence” should not be construed devoid of its context. When this Court in Ramkumar Choudhary (supra) said that events after the expiry of limitation till the date of actual filing would be of no consequence, the same was made in view of the well-established rule that “sufficient cause must be establish that because of some event or circumstance arising before the limitation expired”. The aforesaid observations of “what events occurred after the 91st day till the last is of no consequence” in Ramkumar Choudhary (supra) were made in the peculiar facts of that case, where the appellant had failed to assign any “sufficient cause” occasioning during the period of limitation, which rendered the events occurring after the expiry of limitation as irrelevant.

115. However, as is manifest from the entire discussion above, for the purpose of condonation of delay in terms of Section 5 of the Limitation Act, the delay has to be explained by establishing the existence of “sufficient cause” for the entirety of the period from when the limitation began till the actual date of filing. In other words, if the period of limitation is 90-days, and the appeal is filed belatedly on the 100th day, then explanation has to be given for the entire 100-days.”

28. The record further does not indicate any due diligence on the part of the petitioner in pursuing the statutory remedy within the prescribed time.

No cogent material has been placed on record to substantiate the explanation for the inordinate delay.

29. That apart, the conduct of the petitioner even prior to the passing of the orders dated 28.02.2024 does not inspire confidence. The record reflects that despite grant of multiple opportunities by the respondent authority, the petitioner appeared only once and thereafter failed to appear and represent its case on subsequent dates, resulting in the matter being proceeded ex parte before the respondent authority. The same is evident from the orders dated 28.02.2024 passed by the respondent authority, which *inter alia* record as under:

> *"On hearing dated 20.10.2023, Mr. Abhay Kumar Pandey appeared on behalf of the establishment. He requested for some time to verify the delay mentioned in summon. Based on request, time was granted and the next date of hearings fixed for 09.11.2023. The case was adjourned for several occasion i.e. 09.11.2023, 07.12.2023, 10.01.2024, 24.01.2024 & 08.02.2024 in the interest of natural justice. However, no representation/submission received from employer in this regard. Therefore, it is understood that the establishment has nothing to say further in the matter hence the enquiry stands concluded ex-parte."*

30. The lack of diligence on the part of the petitioner, thus, is not confined merely to the appellate stage but is evident from the proceedings before the respondent authority as well.

31. Insofar as the reliance placed on the decision in ***Priyabrata Maity v. Employees Provident Fund Organization*** (supra) by the petitioner is concerned, the same is clearly distinguishable on facts. In the said case, the delay had occurred on account of the order not having been served upon the concerned party for a considerable period of time. In the present case, however, it is an admitted position that the petitioner had received the order dated 28.02.2024 within a week of its issuance. The said decision, therefore,

does not advance the case of the petitioner.

32. It is well settled that where a statute provides for a specific period of limitation along with a limited power of condonation, the provisions of Section 5 of the Limitation Act, 1963 stand impliedly excluded. The Tribunal, therefore, could not have exercised any power to condone delay beyond the period prescribed under Rule 7(2) of the Rules. It is equally well settled that, in light of the express mandate of Rule 7(2) of the Rules, the Tribunal lacks jurisdiction to condone delay beyond a period of 120 days.

33. The same is settled by the Division Bench of this Court in ***Assistant Regional Provident Fund Commr., Meerut v. Employees' Provident Funds Appellate Tribunal,*** 2005 SCC OnLine Del 799, wherein, after referring to the three judge bench decision of the Supreme Court in ***Commissioner of Sales Tax*** **v.** ***Parson Tools and Plant***, [35 S.T.C. 413], it was held as under:

> "*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. <u>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</u>*

<u>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 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.</u> 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.

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23. In the instant case, a separate period of limitation is provided, as also the period for which delay can be condoned. The Legislature was aware about, the provisions contained in S. 5 of the Limitation Act, yet with an intention to curb the delay in labour matters, Legislature left it to the Rule making authority to make a provision for limitation. Rule-making authority under the statute has specifically provided that after the statutory period, if there is delay of 60 days, on showing sufficient grounds for delay of 60 days, that can be condoned. Thus applicability, of S. 5 of the Limitation Act is specifically excluded.

24. The expression "expressly excluded" in Sub-sec. (2) of S. 29 of the Limitation Act means an exclusion by express words, i.e., by express reference and not exclusion as a result of logical process of reasoning. In the instant case there is no question of implied exclusion but, it specifically provides a different period of limitation, as also the period during which, if delay has occurred, it could be condoned.

25. With regard to the applicability of Ss. 4 to 24 of the Limitation Act (inclusive) one will have to refer to Sub-sec. (2) of S. 29 of the Limitation Act, 1963. It specifically states that these provisions shall apply only so far as and to the extent to which, they are not expressly excluded by special or local law. <u>Reading the language of Rule 7 of the Rules and S. 5 of the Limitation Act, it is very clear that extension of time for a period 60 days only can be condoned subject to satisfaction and not beyond that. From an examination of Rule 7 of the Rules, it is very clear that S. 5 of</u>

the Limitation Act is expressly excluded as a specific provision is made in Rule 7."

34. Similarly in ***Saint Soldier Modern Senior Secondary School v. Regional Provident Fund Commissioner***, 2014 SCC OnLine Del 4496, a Division Bench of this Court has 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."*

35. In the backdrop of the aforesaid settled position, it is evident that the statutory framework under the EPF & MP Act, 1952, read with Rule 7(2) of the Rules, leaves no scope for condonation of delay beyond the aggregate period of 120 days. The Tribunal, therefore, could not have invoked any equitable considerations or resorted to the provisions of the Limitation Act to extend the period of limitation. Thus, the Tribunal has rightly dismissed

the appeal preferred before it by the petitioner, on the ground of limitation.

36. Insofar as the contention regarding merits is concerned, the same cannot be gone into once the appeal itself is barred by limitation and is beyond the jurisdictional competence of the Tribunal.

37. In view of the aforesaid, this Court is of the considered opinion that the Tribunal has rightly dismissed the appeal as being barred by limitation.

38. For the reasons stated above, this Court finds no infirmity in the Impugned Order. The appeal is unmerited and is dismissed. Pending applications also stands disposed of.

SACHIN DATTA, J

JULY 1, 2026/*ka*