IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 1839 of 2026

Hindustan Cables Limited
Versus
Union of India & Anr.

For the Petitioner	:	Mr. Soumya Majumder, ld. Sr. Adv. Mr. Puspal Chakraborty, Ms. Sanjukta Dutta, Mr. R. Ray.
For the Respondent no. 2/ EPF Organisation	:	Mr. Avijit Tewary.
For the UOI	:	Mr. Noni Gopal Chakrabroty, Mr. Ravi Ranjan Kumar.
Judgment reserved on	:	17.09.2026
Judgment delivered on	:	13.10.2026

Shampa Dutt (Paul), J.:

1. The writ application has been preferred challenging an order dated 31.07.2025 passed under Section 7A of the Act, thereby levying surcharge for the period from April, 2019 to March, 2021 and orders/notice dated 9th December, 2015, 27th April, 2016 and 26th June, 2025 passed by the respondent no. 1.

2. Vide the order dated 26th June, 2025, the Central Government Industrial Tribunal, Asansol has been pleased to pass an order as follows:-

> *"that the appeal under Section 7-I of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 is dismissed on contest. Hindustan Cables Limited, Rupnarainpur Unit, the appellant is directed to deposit the damages assessed against it in the impugned order dated 27.04.2016 under Section 14-B of the EPF Act. Let copies of the Order be communicated to the parties under Rule 20 of the Tribunal (Procedure) Rules, 1997."*

3. It is the case of the petitioner herein that vide letter dated 6th October, 2016 the respondent no. 1 had issued a letter regarding the **closure of the petitioner company on the basis of a Cabinet decision dated 28.09.2016.** The respondent no. 1 in the said notice for **closure**, directed several phases for **infusion of funds** and the **Cabinet decision** was as follows:-

> *"Closure of Hindustan Cables Limited by relieving all the employees for implementation of approved Roadmap for closure of CPSEs under DHI. This would be achieved by offering attractive VRS/VSS Package, retrenchment of employees not opting VRS/VSS under Industrial Disputes Act, 1947 (IDA), settlement of all employees related liabilities including payment of salary and wages from April 2015 till they are separated from the Company, paying off principal amount to the secured creditors for One Time Settlement (OTS) to free assets, settlement of liabilities of unsecured creditors, disposal*

of moveable and immovable assets as per the extant guidelines issued by Department of Public Enterprises, closure under the Companies Act and Industrial Disputes Act (IDA) and the provisions of other relevant Acts."

4. Finally, it was stated that :-

"(ix) In principle approval of Cabinet for transferring assets and remaining employees of only Naini Unit of HCL to a wholly owned subsidiary of HAL, a CPSE under Department of Defence Production, as per the terms and conditions of transfer agreed upon. If the takeover formalities are not completed within the three months of the VRS/VSS window period the Department of Heavy Industry will go ahead with the normal route of closure of Naini Unit also."

5. It appears from the order under Section 14-B of the EPF Act dated 27.04.2016 for the period for which the damages under Section 14-B has been claimed is for the period from March, 2010 to March, 2015 that is just prior to the decision of the Cabinet.

6. From the said letter, it appears that prima facie the petitioner company was not generating any income, which finally led to the Cabinet decision in 2016.

7. A prima facie case has been made out that for the period damages have been claimed, the petitioner company was not generating any income and, as such, was not in a position to make timely deposits, for which damages have been claimed.

8. Admittedly, the total amount of damages has been deposited with the respondent EPF authorities.

9. The petitioner herein has now approached this Court for setting aside of the order/Award passed by the Tribunal along with the **order under Section 14-B of the EPF Act dated 27.04.2016.**

10. It appears from the order under Section 14-B of the EPF Act dated 27.04.2016, that the respondent no. 2 passed an order wherein he observed as follows:-

> *"On 25.02.2016 Sri D. Samanta and Sri G. Mallick, CM appeared on behalf of the establishment and submitted the copies of challans with detailed statement.* ***Department is directed to examine the challans and put up final draft statement of levy of damages u/s 14B and the hearing concluded on the basis of available records and the records submitted by the establishment.***
>
> ***As such, I consider that the establishment has delayed in the payment of statutory dues without any valid reason.*** *Not only to cover the loss of interest caused to the fund required to be taken into account, but also to deter the employer from repeating such violation of Rules, required to be levied so that in future dues are paid in time."*

11. The petitioner argues that the order under Section 14B of the EPF Act cannot be sustained for the following reasons:-

> *(a) 14B order dated 26th June, 2025 passed by the Assessing Authority is wholly* ***unreasoned.***
>
> *(b) Exercise of jurisdiction under Section 14B is a quasi judicial function since it empowers an authority to decide on civil consequences based on allegations made by the*

Authority itself. In fact, order under Section 14B is actually a determination of amount due from an establishment under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. 14B is only an enabling provision to recover damages; whereas enquiry or determination is to be made under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. ***The language of Section 14B makes the provision penal in nature; and therefore, the standard of test should be beyond reasonable doubt.***

(c) Every quasi-judicial order is bound to be a reasoned one.

12. The following judgments are relied upon:-

(i) Assistant Provident Fund Commissioner, (South) -Vs- Shalom Restaurant (2015 SCC Online Del 7220, Para-26.

(ii) Central Board of Trustees, through the Regional Provident Fund Commissioner-I Regional Office Howrah Vs The Registrar Central Government Industrial Tribunal, Kolkata & Anr. (WPA No. 1945 of 2025, Para-17.

13. It is further stated that on the basis that there was no material to show that the company was a "Sick Industrial Company", just because no objection was recorded in the rate of quantum of damages, was itself not a ground to sustain the original order. The appellate order suffers from abdication of appellate duties.

14. It is further stated that the appellate order proceeds on the basis that the power to reduce or waive damages contained in Para 32A of the Scheme does not extend to complete exemption from payment of

contribution. This is a completely wrong test applied since it was no body's case that the establishment was not liable to pay contribution. On the contrary, the levy of damages was made for belated remittance of contributions.

15. The principal argument made by the petitioner is that when Central Government had remitted fund from the Consolidated Fund of India for disbursement of wages, statutory contributions and also damages; whether such loan amount to a body corporate flowing from the Consolidated Fund of India under Article 283 of the Constitution of India can be retained by another body corporate which has also been created by the Central Government. Article-283 of the Constitution of India and reads as follows:-

> *"283. Custody, etc., of Consolidated Funds, Contingency Funds and moneys credited to the public accounts.-(1)*
>
> *The custody of the Consolidated Fund of India and the Contingency Fund of India, the payment of moneys into such Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of India, their payment into the public account of India and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by Parliament, and, until provision in that behalf is so made, shall be regulated by rules made by the President.*
>
> *(2) The custody of the Consolidated Fund of a State and the Contingency Fund of a State, the payment of moneys into such Funds, the withdrawal of moneys*

> *therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of the State, their payment into the public account of the State and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid* ***shall be regulated by law made by the Legislature of the State, and, until provision in that behalf is so made, shall be regulated by rules made by the Governor of the State" State".***
>
> *Under Section 5A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the Central Government constitutes the Board of Trustees.*

16. The matters provided in Schedule II to the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 read with Section 5(1B) thereof is an indicator for this purpose.

17. **Item no. 6 of Schedule II** provides for investment of moneys belonging to the Fund in accordance with any directions issued or conditions specified by the Central Government including preparation of budget audit accounts etc. and submission of reports to the Central Government or specified State Government.

18. **The conditions in Schedule 11** regulates the function of the Central Board of Trustees constituted by the Central Government under Section 5C of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

19. Therefore when money comes from the Consolidated Fund of India which is once again under the control of the Central

Government in terms of Article 283 of the Constitution of India and the said money is retained by the Central Board of Trustees; in accordance with condition no. 6 to Schedule II to the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, **the said amount has to be invested in the manner and pattern regulated by the Central Government. Penalising the Central Government by a body created by the Central Government for delayed budgetary supported will therefore, lead to absurd budgetary position and abuse of the provisions of the Act of 1952.**

20. In the admitted facts of the case **where Central Government had closed the company through a Cabinet decision. The claim for damages by the Central Board of Trustees, cannot survive.**

21. Central Board of Trustees is duty bound under condition no. 6 to Schedule II to put the amount in the manner as directed by the Central Government. It is inconceivable and absurd to comprehend that Central Government would channelize its money to a body constituted by the Central Government and then again direct the body to invest the amount in the manner and pattern as the Central Government would direct, and in the process the body constituted by the Central Government would penalize the Central Government itself. This is against the principle of Article 283 of the Constitution of India.

22. In view of the above, **the impugned orders should be set aside and the amount deposited should be refunded** to the Central Government through the writ petitioner company.

23. The petitioner has also relied upon ***M/s. Kerala Industrial Infrastructure Development Corporation vs. Central Board of Trustees & Anr***. in ***Civil Appeal No. 7724 of 2023.***

24. It is further submitted that the judgment in ***Horticulture Experiment Station Gonikoppal, Coorg v. Regional Provident Fund Ortganization (2022) 4 SCC 516*** has been referred to a **larger Bench.**

25. The respondent no. 2/The Regional Provident Fund Commissioner-II filed written notes of argument.

26. It is submitted that **non-availability of fund or running in loss is not a valid reason for delaying provident fund remittance**. The second proviso of the Section 14B provides that the Central Board may reduce or waive the damages in relation to an establishment which is a sick industrial company and in respect of which a scheme of rehabilitation has been sanctioned by the BIFR established u/s 4 of the Sick Industrial Companies (Special Provisions) Act, 1985 subject to such terms and conditions as may be specified in such scheme. Simply by declaring an establishment as sick industry by BIFR cannot absolve the liability of the establishment from paying the damages for delayed remittance.

27. In the present case during the 14B proceedings the petitioner could never submit such rehabilitation scheme sanctioned by BIFR and as such the petitioner establishment is not entitled to get any waiver or reduction under the said second proviso to the Sec 14B.

28. It is submitted that the payment of contributions and allied dues in time is a statutory liability of every establishment. Failure to pay the contributions and allied dyes in time attracts damages under section 14B of the said Act, 1952.

29. The respondent no. 2 has relied upon the following judgments:-

(i) Organo Chemical Industries & Anr. vs. Union of India and others (1979) 4 SCC 573;

(ii) Horticulture Experiment Station Gonikoppal, Coorg v. Regional Provident Fund Ortganization (2022) 4 SCC 516.

30. Parties have filed their respective affidavits in the present case.

31. The petitioner's case being number 505/2002, was heard by the BIFR on 21.03.2003, where in the Board observed:-

> *"16. Considering the facts of the case and the submissions made at the hearing, the Board noted that the company had become a sick industrial company as on 31.3.2001. The earlier reference filed by the company was rejected by the Board on technical grounds. The company/DHI have however, not initiated any steps towards its rehabilitation. The net worth of the company was also fully eroded as on 31.3.2002. A meaningful rehabilitation scheme for the company could be formulated only if GOI would look into all the aspects of operations of the company, examine overall techno economic*

viability of the company decide on the reliefs and concessions that GOI was agreeable to extend for revival of the company and whether the company was to be rehabilitated through induction of funds or disinvestments. The Board was satisfied that the company had become a sick industrial company in terms of Section 3(1)(0) of the Act and accordingly declared it to be a sick company in terms of the aforesaid provisions of the Act. Based on the submissions of the company, the Board also formed the opinion that the company would not be able to revive on its own and that it was necessary in public interest to take measures specified under section 18 of the Act. Accordingly, it appointed SBI as the Operating Agency (OA) under section 17(3) of the Act to examine the viability of the company. The OA shall keep in view the provisions of Section 18 of the Act and the Guidelines annexed while examining its viability and preparing a report on its rehabilitation."

"17. .....
viii) The company shall deposit employee's share of Provident fund and ESIC's dues, if any withheld by it, with the concerned authorities forth with. No protection against the actions of these authorities for defaults in this regard would be available to the company beyond today."

32. Relaxation (exemption) was withdrawn on 14/17.10.11 and the petitioner was to comply as an unexempted.

33. On 28th September, 2016, the Cabinet approved closure of the petitioner company.

34. Finally in the closure notice it was stated as follows:-

".....The company is a -BIFR referred company since 2002. Government of India's decision for closure of the company will be conveyed to BIFR for

seeking their approval. The employees of the Company will be offered attractive VRS/VSS. Retrenchment process will also be followed as per Industrial Disputes Act 1947. OTS with secured creditors will be made to free the land assets of the Company. The other liabilities of the company including statutory liabilities arising during the process of closure of company will be taken care of as per the provisions of law and the aforesaid guidelines of Department of Public Enterprises……"

35. The petitioner's case before the tribunal was:-

"10. It is submitted the opposite party erred by levying penalty u/s 14 B of EPF and MP Act 1952 on delayed PF remittances in respect of excluded employees in spite of the fact that HCL was not liable to make any PF remittance in respect of excluded employees in absence of compliance of preconditions under rule 26(6) of the Scheme 1952.

11. It is submitted that the order levying the penalty u/s 14 B of the Act 1952 erroneously made by the opposite party may kindly be/set aside as HCL was not supposed to make any PF remittance for excluded employees due to non compliance of provision of 26(6) of the Scheme 1952 and thus HCL is not liable for timely or delayed remittances in respect of excluded employees as per rule 2(f) (ii), 26(1), 26(6) and 26A of the Scheme 1952.

12. It is submitted that the penalty u/s 14 B erroneously assessed by the opposite party and already deposited by HCL due to non availability of immediate relief from EPFAT, may kindly be ordered for refund to HCL."

36. From the impugned award, it appears that:-

"…….receiving financial support from the Government of India, the employer company the deposited employer and employee's contribution

towards Provident Fund and additionally deposited interest under Section 7-Q of the EPF Act for delay….."

37. The order under Section 7A of the Act was not challenged before the Tribunal. Only the order under Section 14B of EPF had been challenged.

38. The findings of the tribunal is:-

"12. I have considered the arguments advanced by the learned advocates of the appellant and respondent in the light of the facts and circumstances and the provisions of law governing levy of damages under the EPF Act. The appellant establishment simply has stated that the appellant establishment was declared a sick unit by BIFR in November, 2002 and a case bearing No. 505/2002 was registered in this matter. In their written submission dated 25.02.2016 appellant tried to raise a plea that Hindustan Cables Limited was registered as a sick company at BIFR in November, 2002. No particulars have been submitted in support of such claim of being declared a sick industry. It is admitted in the Memorandum of Appeal of the appellant that they have delayed in making payment of Provident Fund dues for the period from March, 2010 to March, 2015. The provision of Section 14-B entails that the employer making default in payment of contribution to the fund is liable to pay damages as may be specified in the scheme. Paragraph 32-A of the scheme lays down the different rates of damages applicable which came into effect from 26.09.2008. In the Show Cause Notice the rates of damages have been mentioned as five percent (5%) to twenty-five percent (25%) and the calculation sheets have been annexed. In their written submission they did not raise any objection against the rate or quantum of damages calculated. Therefore, I find no incongruity in the findings of the respondent authority in the matter of levying of damages."

39. **It appears from the materials on record** that the above findings is prima facie erroneous for the following reasons:-

(i) The petition was before the BIFR in case no. 505/2002.

(ii) The petitioner company closed down vide a Cabinet approval dated **28.09.2016.**

(iii) The order for damages under Section 14B EPF Act is dated **24.04.2016.**

(iv) The impugned award is dated 26.06.2025.

40. It appears that respondent no. 2 in the said order has noted ***"the department is directed to examine the challans and put up a final draft statement of levy of damages under Section 14-B and hearing was concluded on the basis of available records".***

41. It appears that the petitioner company appeared on behalf of the establishment and submitted copies of documents and detailed statement.

42. It is surprising to note that the respondent no. 2 while permitting the petitioner to submit copies of documents with detailed statement, **directed the department to examine the challans** and submit statement of damages. He also took the document filed by the petitioner on record.

43. But it appears that without even considering such challans or documents placed by the petitioner, the respondent no. 2 straight away **directed the department to examine the challans and put up a final draft statement of levy of damages under Section 14-B of the Act**.

44. The said order prima facie **shows that the respondent no. 2 had already made up his mind to levy damages under Section 14-B and, as such, directed the department to put up a final draft statement**. **This direction of the respondent no. 2 in the order under Section 14-B without recording any reasons or findings is prima facie against the principle of natural justice**.

45. It appears from the impugned order that the petitioner establishment is a sick unit declared by the BIFR in November, 2002, but the Tribunal observed that no documents in support was filed. The learned Tribunal relying upon certain judgments dismissed the appeal on recording the arguments of the parties and proceeded to hold that the petitioner was liable to pay the damages.

46. **It further appears from the order under Section 14-B of the EPF Act dated 27.04.2016 that the prayer of the petitioner establishment before the respondent company as a sick unit was neither recorded nor considered and the Award/order passed by the Tribunal prima facie appears to be without any proper reasons being recorded for accepting the order under challenge under Section 14-B of the EPF Act dated 27.04.2016.**

47. In ***Organo Chemicals Industries and Anr. vs Union of India & Ors., 1979 (4) SCC 573, decided on 23 July, 1979,*** the Supreme Court held:-

> *"**Per Krishna Iyer, J.***

6. A high official hears and decides. The maximum harm is pecuniary liability limited by the statute. The writ jurisdiction is ready to review glaring errors. Under such circumstances the needs of the factual situation and the legal milieu are such that the absence of appellate review in no way militates against the justice and reasonableness of the provision. The argument of arbitrariness on this score is untenable. ***The section is not bad, though action under the section can be challenged in writ jurisdiction when infirmities which attract such jurisdiction vitiate the order. [71 E-F]***

8. The word 'damages' under s. 14B has a wealth of implications and limitations, sufficient to serve as guideline in fixing the impost. The conceptual limitations of 'damages' serve as guideline and barricade the exercise. The Commissioner cannot award anything more than or unrelated to 'damages'. Nor can he go beyond 100% of the amount defaulted. Such limitations without further guidelines are not uncommon in taxing laws to penalise defaults and suppressions. [73B, H, 74A] 64 C.I.T., M.P. v. Radhakrishan, [1979] 2 SCC 249; P. N. Kaushal v. Union of India, etc., [1978] 3 SCC 558; referred to.

11. The power conferred to award damages is delimited by the content and contour of the concept itself and if the Court finds the Commissioner travelling beyond, the blow will fall. Section 14B is therefore good for these reasons. [74G]

Per Sen, J.

3. The imposition of damages under section 148 serves a two-fold purpose. It results in damnification and also serves as a deterrent. The predominent object is to penalise, so that an employer may be thwarted or deterred from making any further defaults. [87E]

The expression "damages" accruing in Section 14B is, in substance, a penalty imposed on the employer for the breach of the statutory obligation. The object of

imposition of penalty u/s 14B is not merely "to provide compensation for the employees". The imposition of damages u/s 14B serves both the purposes. It is meant to penalise defaulting employer as also to provide reparation for the amount of loss suffered by the employees. It is not only a warning to employers in general not to commit a breach of the statutory requirement of section 6 of the Act, but at the same time it is meant to provide compensation 66 or redress to the beneficiaries i.e. to recompense the employees for the loss sustained by them. The damages need not bear any relationship to the loss which is caused to the beneficiaries under the scheme. [87F-G]

7. The power of Regional Provident Fund Commissioner to impose damages under section 14B is quasi-judicial function. It must be exercised after notice to the defaulter and after giving him a reasonable opportunity of being heard. The discretion to award damages could be exercised within the limits fixed by the statute, by taking into consideration various factors, namely, the number of defaults, the period of delay, the frequency of defaults and the amount involved. Having regard to the punitive nature of the power exercisable under Section 14B and the consequences that ensue therefrom, ***an order under Section 14B must be a "speaking order" containing the reasons in support of it. [83H-84A] 67 Commissioner of Coal Mines Provident Fund, Dhanbad v. J. Lalla & Sons, [1976] 3 S.C.R. 365; referred to.***

8. Mere absence of provision for an appeal in the Employees Provident Fund and Miscellaneous Provisions Act, 1952 does not imply that the Regional Provident Fund Commissioner, is invested with arbitrary or uncontrolled power, without any guidelines. [85B]

The conferral of power to award damages under section 14B is to ensure the success of the measure. It is dependent on existence of certain facts, there has to be an objective determination, not subjective. [85C]

The Regional Provident Fund Commissioner has not only to apply his mind to the requirements of Section 14B but is cast with the duty of making a speaking order after conforming to the rules of natural justice. [85C]

The absence of a provision for appeal or revision can be of no consequence. Where the discretion to apply the provisions of a particular statute is left with the Government or one of the highest officers, it will be presumed that the discretion vested in such a high authority will not be abused. The Government or such authority is in a position to have all the relevant and necessary information in relation to each kind of establishment, the nature of defaults made by the employer and the necessity to decide whether the damages to be imposed should be exemplary or not. When the power has to be exercised by one of the highest officers, the fact that no appeal has been provided for "is a matter of no moment". There is always a presumption that public officials would discharge, their duties honestly and in accordance with the rules of law. [85G, D-F]

Mohammad Ali and Ors. v. Union of India and Anr., [1963] Suppl. 1 SCR 993; K. L. Gupta v. Bombay Municipal Corporation, [1968] 1 SCR 274; Chintalingam and Ors. V. Govt. of India and Ors. [1971] 2 SCR 871 and Pannalal Binjraj v. Union of India, [1957] SCR 233; followed."

48. In ***Horticulture Experiment Station Gonikoppal, Coorg vs The Regional Provident Fund Organisation, (2022) 4 SCC 516,*** the Supreme Court held:-

*"**13.** Taking note of the exposition of law on the subject, it is well- settled that mens rea or actus reus is not an essential element for imposing penalty or damages for breach of civil obligations and liabilities.*

***17.** Taking note of three-Judge Bench judgment of this Court in **Union of India and Others v. Dharmendra Textile Processors and others (supra),** which is indeed binding on us, we are of the considered view that any default or delay in the payment of EPF contribution by the employer under the Act is a sine qua non for imposition of levy of damages under Section 14B of the Act 1952 and mens rea or actus reus is not an essential element for imposing penalty/damages for breach of civil obligations/liabilities."*

49. Para 32B of the EPF scheme, 1952 is as follows:-

> *"**32B. Terms and conditions for reduction or waiver of damages.**- The Central Board may reduce or waive the damages levied under section 14-B of the Act in relation to an establishment specified in the second proviso to section 14-B, subject to the following terms and conditions, namely,-*
> *(a)in case of a change of management including transfer of the undertaking to workers' co-operative and in case of merger or amalgamation of the sick industrial company with any other industrial company, complete waiver of damages may be allowed;*
> *(b)in cases, where the Board for Industrial and Financial Reconstruction, for reasons to be recorded in its Scheme, in this behalf recommends, waiver of damages up to 100 per cent. may be allowed;*
> ***(c)in other cases, depending on merits, reduction of damages up to 50 per cent. may be allowed."***

50. In ***M/s. Hindustan Times Limited vs Union of India & Ors., AIR 1998 SC 688, decided on 7 January, 1998,*** the Supreme Court held:-

> *"…….. From the aforesaid decisions, the following principles can be summarised: **The authority under Section 14-B has to apply his mind to the facts of the case and the reply to the show cause notice and pass a reasoned order after following principles of natural justice and giving a reasonable opportunity of being heard;** the Regional Provident Fund Commissioner usually takes into consideration the number of defaults, the period of delay, the frequency of default and the amounts involved; default on the part of the employer based on pleas of power cut, financial problems relating to other indebtedness or the delay in realisations of amounts paid by the cheques or drafts, cannot be justifiable grounds for the employer to escape liability; there is no period of limitation prescribed by the legislature for initiating action for recovery of damages under section 14B. The fact that proceedings are initiated or demand for damages is made after several years cannot by itself be a ground for drawing an inference of waiver or that the employer was lulled into a belief that no*

proceedings under section 14B would be taken; mere delay in initiating action under section 14B cannot amount to prejudice inasmuch as the delay on the part of the department, would have only allowed the employer to use the monies for his own purposes or for his business especially when there is no additional provision for charging interest. However, the employer can claim prejudice if there is proof that between the period of default and the date of initiation of action under section 14B, he had changed his position to his detriment to such an extent that if the recovery is made after a large number of years, the prejudice to him is of an "irretrievable" nature: he might also claim prejudice upon proof of loss of all the relevant records and/or non-availability of the personnel who were, several years back in charge of these payments and provided he further establishes that there is no other way he can reconstruct the record or produce evidence; or there are other similar grounds which could lead to "irretrievable" prejudice; further, in such cases of "irretrievable" prejudice, the defaulter must take the necessary pleas in defence in the reply to the show cause notice and must satisfy the concerned authority with acceptable material; if those pleas are rejected, he cannot raise them in the High Court unless there is a clear pleading in the writ petition to that effect……."

51. Under the Employees' Provident Fund Act, Section 14B allows the Central Provident Fund Commissioner to recover "damages" from employers who fail to make timely payments of mandatory contributions to the Employees' Provident Fund (EPF), essentially acting as a penalty to incentivize compliance and ensure employees receive their full benefits by punishing employers for delayed payments; this includes contributions to the Pension Fund and Insurance Fund as well.

52. The judgment of the Larger Bench of the Calcutta High Court in ***Dalgaon Agro Industries Ltd. (Now known as Tasati Tea Ltd.)***

Versus Union of India & Ors. (Supra) paragraph 13 has been relied upon, by the petitioner wherein it has been held as follows:-

> *"11.2. In this context we may refer to the provisions of section 14B. The reasonable opportunity of being heard has been given to the employer in order to establish that there is no default and he is not liable for damages or that the period of default is such that he is liable to a particular rate of damages or he is entitled to exemption provided thereunder. In case of imposition of damages the question being guided by statutory directions and guidelines which are mathematically calculable and being absolutely objective with mathematical precision,* ***it is only the period of delay which is relevant to be explained but not the reasons. Whatever might be the reasons the damage is leviable.*** *The same can neither be reduced nor waived* ***except*** *in relation to an establishment which is* ***a sick industrial company*** *and in respect of which* ***scheme for rehabilitation*** *has been sanctioned by the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies (Special Provisions Act, 1985 and that too by the Central Board under the 1952 Act. Section 14B does not contemplate any power either to the Central Provident Fund Commissioner or such officers authorized by the Central Government by notification, to reduce or waive the damages leviable under section 14B since specified in the scheme. It is expected that the records would be available in the establishment with the employer. Therefore the apprehension that the transferee may not be able to explain the reason for default would not attract the principles of natural justice and cannot be a factor to interpret the provisions of section 17B. The principles of natural justice has no role to play in the sphere of interpretation of statutes. In any event when the language of a particular section is clear and the meaning given to it is compatible with the context in which it has been enacted and the object and purpose for which it has been designed to serve, and is not inconsistent therewith, then we are not supposed to take any external aid for construing or interpreting a particular legislation."*

53. WPA 1839 of 2026 is allowed.

54. Thus the impugned order dated 31.07.2025 passed under Section 7A of the Act, thereby levying surcharge for the period from April, 2019 to March, 2021 and orders/notice dated 9th December, 2015, 27th April, 2016 and 26th June, 2025 passed by the respondent no. 1, **being an unreasoned order, having also not considered the documents of the petitioner herein,** is not in accordance with law and is thus set aside and quashed.

55. The amount assessed as damages, deposited by the petitioner with the respondent P.F. authorities, be returned to the petitioners within 30 days from the date of this order.

56. Applications, if any, connected thereto stand disposed of consequently.

57. Photostat certified copy of this Judgment, if applied for, be given to the parties on priority basis upon compliance of all formalities.

(Shampa Dutt (Paul), J.)