HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 7247/2026

M/s. Kokoku Intech India Pvt. Ltd, SP2-39 & amp, 40 RIICO Industrial Complex (Majrakath) Neemrana, District Alwar 301705, (Rajasthan) through Vikas Chandra Verma, Senior General Manager and authorized person.

----Petitioner

Versus

1. The Assistant Provident Fund Commissioner, Nidhi Bhawan, Opp. Geetanjali Hospital, Agrasen Circle, Alwar-301001
2. The HDFC Bank Limited, through its Branch Manager, Office Addresses G-47, Neemrana Industrial Area, Neemrana, Alwar 301705, (Rajasthan).

----Respondents

For Petitioner(s)	:	Mr. R.D. Sharma a/w Mr. Vishal Singh and Mr. Himanshu Awasthi.
For Respondent(s)	:	---

HON'BLE MR. JUSTICE MUNNURI LAXMAN

<u>Order</u>

<u>24/04/2026</u>

1. At the request of the learned counsel appearing for the petitioner, the present writ petition is taken up and heard for final disposal at the admission stage itself.

2. The present writ petition has been filed challenging the impugned order dated 11.03.2026 (Annx.P/7) whereunder recovery of monetary dues under the assessment order passed by the Authority, which is under challenge before the Appellate Authority, has been made from the Bank Accounts of the present petitioner.

3. The grievance of the petitioner is that the petitioner had filed an appeal before the Appellate Tribunal and had also filed a stay application. However, without responding to the stay application by filing a reply, the respondents have been continuously obtained adjournments. As a result, no order has been passed by the Tribunal on the stay application and consequently, the recovery of monetary dues has been made from the bank account of the petitioner, by the impugned order.

4. The submission of the learned counsel for the petitioner is that the recovery could not have been made without issuing notice to the petitioner, that too, when the appeal is pending. The amount under the assessment order which is already under challenge in the appeal, could not have been recovered before the disposal of the appeal or the stay application. It is also his argument that the recovery, without cooperation from the respondents for disposal of the appeal or the stay application is unfair on the part of the respondents. In this regard, the learned counsel for the petitioner relied upon the decision of the High Court of Bombay in the case of ***Orange Hotels & Restaurant Pvt. Ltd. Vs. Regional Provident Fund Commissioner-II****: Writ Petition (L) No. 8899 of 2024, decided on 18.03.2024,* wherein it was held that when the appeal is pending and when no order has been passed on the stay application, the Court, while taking into consideration all the facts and circumstances of the case therein, restrained the respondent therein from initiating any proceedings against the petitioner for execution of the recovery order.

5. In the present case, the appeal was filed on 08.12.2025 along with stay application. Unfortunately, the stay application could not be decided due to the liberal grant of adjournments by the Tribunal and also due to non-cooperation of the respondents in filing reply to the stay application.

6. It is not the case of the petitioner that the Tribunal has no powers to decide the stay application when the reply is not filed. The petitioner could have insisted before the Tribunal to dispose of the stay application even though the reply had not been filed, by requesting the Tribunal for forfeiture of the right of the respondents to file the reply. It appears that the petitioner had moved an application for grant of fresh stay of recovery after the notice of recovery was issued to execute the order of assessment. It appears that the said application was also not dealt with by the Tribunal. Yet, the petitioner had not chosen any other forum seeking directions to the Tribunal to dispose of the stay application. Till the notice of recovery was given to the Bank of the petitioner, it appears that the petitioner was also not serious in prosecuting the case. When no orders had been passed; he could have approached this Court seeking directions to the Tribunal to dispose of the appeal or at least the stay application which he had filed seeking stay over the order dated 10.10.2025 (Annex.P/2) passed by the respondent Authority. He waited silently till the proceedings were initiated for recovery of the monetary dues under the assessment order till the year 2026. Further, the proceedings ended in recovery and the present writ petition has been filed seeking quashment of the impugned order and seeking directions to refund the amount. As long as the assessment order

remains executable and no stay has been granted, the Authority is entitled to recover the amount.

7. The argument of the learned counsel appearing for the petitioner is that while ordering recovery under the assessment order from the bank account of the petitioner , the compliance of Section 8(F)(iii) of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act of 1952') has not been followed.

8. To answer the said argument, it is apt to refer to Section 8(F)(iii) of the Act of 1952, which reads as under:-

> *"**8F. Other modes of recovery.**— (3) (i) The Central Provident Fund Commissioner or any other officer authorised by the Central Board in this behalf may, at any time or from time to time, by notice in writing, require any person from whom money is due or may become due to the employer or, as the case may be, the establishment or any person who holds or may subsequently hold money for or on account of the employer or as the case may be, the establishment, to pay to the Central Provident Fund Commissioner either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due from the employer in respect of arrears or the whole of the money when it is equal to or less than that amount.*
>
> *(ii) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or an account of the employer jointly with any other person and for the purposes of this sub-section, the shares of the joint-holders in such account shall be presumed, until the contrary is proved, to be equal.*

(iii) A copy of the notice shall be forwarded to the employer at his last address known to the Central Provident Fund Commissioner or, as the case may be, the officer so authorised and in the case of a joint account to all the joint-holders at their last addresses known to the Central Provident Fund Commissioner or the officer so authorised."

9. Sub-Section (iii), as referred to above, requires that a copy of the notice shall be forwarded to the employer or to the joint account holders, for recovery of the amount sought to be recovered or a notice can also be sent to the Bank, which holds the money on behalf of the employer. In the present case, the Bank is the holder of money of the employer and the notice has already been given to the Bank of the petitioner. Thus, it is in full compliance with the provisions of Section 8(F)(iii) of the Act of 1952. Therefore, this Court is not inclined to interfere with the impugned order.

10. In the result, the present writ petition is ***disposed of***, directing the concerned Tribunal to dispose of the pending appeal of the petitioner or at least decide the stay application within a period of one month from the date of production of a certified copy of this order. It is made clear that any recovery, if made, during the pendency of the appeal shall be subject to the final outcome of the appeal.

11. Liberty is also given to the petitioner to challenge any adverse order, if any, passed by the Tribunal in the pending appeal.

(MUNNURI LAXMAN),J

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