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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8483 OF 2014

SHRIGONDA SAHAKARI SAKHAR KARKHANA LTD
VERSUS
ASSISTANT LABOUR COMMISSIONER AND ANOTHER

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Advocate for Petitioner : Mr.Hon Vinayak D., Senior Advocate.

AGP for Respondents: Mr.S.M.Jadhav for R/1.

Advocate for Respondents : Mr.Shelke Avishkar S. for R/2.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 09th June, 2015

Per Court:

1 Mr.Shelke, learned Advocate appearing for the Respondent No.2/ Employee, places reliance upon the judgment delivered by this Court in the matter of the *Chief Executive Officer v/s Assistant Labour Commissioner & Controlling Authority and Madhukar Dhondiram Nagargoje* reported in **2014 (142) FLR 480**, to submit that this Court had already taken a view that the appellate forum provided under Section 7 of the Payment of Gratuity Act, 1972 cannot be bypassed merely with an intention of evading depositing of gratuity dues assessed by the Controlling Authority.

2 Learned Senior Advocate appearing for the Petitioner, in the light of the above, submits that the Petitioner would approach the Appellate Authority under the Payment of Gratuity Act, 1972. However, he further submits that time spent by the Petitioner in this Court owing to the pendency of this petition, be considered as a good ground for condonation of delay in filing the Appeal.

3 Mr.Shelke has no objection.

4 In the event the Petitioner prefers an appeal before the Appellate Authority under the Payment of Gratuity Act, 1972, time spent in this Court from the date of institution of this petition which is 23.12.2013 till the passing of this order, shall be a good ground for condonation of delay.

5 Needless to state, since the Payment of Gratuity Act, 1972 prescribes depositing of the gratuity amount as assessed by the Controlling Authority at the time of preferring an appeal before the Appellate Authority, the Respondents shall not initiate coercive steps against the Petitioner, provided the Petitioner approaches the Appellate Authority within a period of FOUR WEEKS from today by depositing the gratuity amount before the Controlling Authority.

6 In the light of the above, this Writ Petition is dismissed as
withdrawn.

(RAVINDRA V. GHUGE, J.)