

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 581 OF 2014

GOA TOURISM DEVELOPMENT CORPORATION LTD., THR. ITS GENERAL MANAGER MR. SANJAY V. P. CHODNEKAR	... Petitioner
Versus	
REGIONAL PROVIDENT FUND COMMISSIONER-II AND 2 ORS.,	... Respondents

Shri Vijay A. Palekar, Advocate for the Petitioner.

Shri P.P. Singh, Advocate for the Respondent No. 1.

Coram:- C. V. BHADANG, J.

Date:- 16th September, 2015

P.C:

By this petition, the petitioner-Goa Tourism Development Corporation Ltd. is challenging the order dated 02.05.2014 passed by the first respondent under Section 7A of the Employees Provident Fund Act (the Act, for short). By the impugned order, the Regional Provident Fund Commissioner has determined an amount of Rs.10,27,563/- being the outstanding amount due on the petitioner, as an employer, in respect of the provident fund contribution.

2. The brief facts are that the petitioner is a licensor in respect of some shop premises, in which the respondent no. 2 was carrying on business as a licensee. The respondent no. 2 had engaged the employees, in respect of whom the provident fund contribution is claimed. By the impugned order, the learned Provident Fund

Commissioner has found that the petitioner would be liable to pay contribution as an employer.

3. Shri Palekar, the learned Counsel for the petitioner has placed reliance on a judgement dated 25.03.2015 of a Division Bench of this Court in Letter Patent Appeal No. 2/2008, in which the point for determination was whether the appellant i.e. the petitioner herein, was the principal employer and respondent nos. 2 to 13 therein, were employees within the meaning of Section 2(e) and (f) of the Act. The Division Bench has allowed the appeal partly, thereby setting aside the order dated 31.01.2008 passed by the learned Single Judge of this Court, as also the orders passed by the Authorities and remanded the matter to the learned Commissioner for consideration after hearing the parties.

4. Shri Singh, the learned Counsel appearing for the respondent no. 1 fairly submits that the issue in the present petition would be covered by judgement dated 25.03.2015 of the Division Bench of this Court in Letter Patent Appeal No. 2/2008.

5. The learned Counsel for the parties submit that appropriate orders may be passed.

6. In that view of the matter, the petition is disposed of in the following terms:

- (a) The petition is partly allowed.
- (b) The impugned order dated 02.05.2014 passed by the learned Regional Provident Fund Commissioner is hereby set aside.
- (c) The matter is remanded to the learned Commissioner for deciding it afresh in accordance with law, after hearing the parties.
- (d) The amount deposited in this Court shall continue to be deposited before this Court and the same shall be subject to the outcome of the Inquiry and/or further orders, if any passed.
- (e) All the rival contentions of the parties on merits are kept open.
- (f) In the circumstances, there shall be no order as to costs.

C. V. BHADANG, J.

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