

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3877 OF 2015
WITH
CIVIL APPLICATION NO.1004 OF 2015

M/s Rambo Fabrics (P) Ltd. & Ors. Petitioners

Vs.

The Union of India & Ors. Respondents

Mr. Ramesh C. Mishra, Advocate for the Petitioners.

Ms. Bharucha alongwith Mr. D.A. Dubey, Advocate for Respondent no.1.

Coram : Smt. R.P. SondurBaldota, J.

Date : 8th May, 2015

P.C.

1 On 29th April, 2015, this petition was mentioned for urgent circulation on the ground of grave urgency of issuance of arrest warrant against Petitioners no.2 and 3 by the the Assistant Provident Fund Commissioner and Recovery Officer, Regional Office, Mumbai-II, Thane. At the time of circulation, it was not brought to the notice of the court that the order of issuance of arrest warrant already formed part of

the challenge in the petition. Thus the circulation had been obtained by misleading the court.

2 The Assistant Provident Fund Commissioner and Recovery Officer, Regional Office, Mumbai-II, Thane passed the order dtd. 23rd May, 2014 determining the dues payable by the petitioners under Section 7A of Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (the "Act" for short). Admittedly, the petitioners had not produced any documents during the enquiry under Section 7A of the Act. The petitioners have not challenged the order before the appellate authority i.e. the Tribunal. Thereafter the notice of demand dtd. 5th August, 2014 was sent to the petitioners. It is the claim of the petitioners that after receipt of the notice of demand, they could trace out relevant documents and then sought to impress upon the Recovery Officer that the determination of the dues was not correct. The Recovery Officer refused to look into the dispute as regards the computation of the dues determined under Section 7A of the Act and issued recovery certificate. Even thereafter the petitioners did not take any steps to challenge the order under Section 7A of the Act. Admittedly, the petitioners have an alternate remedy to challenge the order of determination of the dues passed under Section 7A of the Act. Therefore, the

petition is not maintainable. The petition is dismissed. In view of dismissal of the Writ Petition, the Civil Application does not survive, the same is accordingly disposed off.

(Smt. R.P. SondurBaldota, J.)