**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.5897 OF 2014**

Ajay D. Gupta, Proprietor of
M/s Perfect Travel, having office at
Gupta House, Near Sanpada Railway
Station, Navi Mumbai-400 703. .. Petitioner.

V/s

1. Union of India through the Assistant Provident Fund Commissioner SRO Vashi, having office at 1st & 2nd Tower 5th Floor, Vashi Railway Station, Vashi, Navi Mumbai-400 703.

2. The Recovery Officer Employees' Provident Fund Organisation, SRO Vashi, having office at 1st & 2nd Tower, 5th Floor, Vashi Railway Station, Vashi, Navi Mumbai-400 703. .. Respondents.

Mr. Jitendra Mishra, for Petitioner.
Mr. Suresh Kumar, for Respondent.

**Coram : Smt. R.P. SondurBaldota, J.**
**Date : 28th April, 2015**

**P.C.**

1. This petition filed on 28th April, 2014, challenges the order dated 07th August, 2012 passed by Employees' Provident Fund Appellate Tribunal on the appeal preferred by the petitioner against the order dated 07th August, 2008 passed by the Assistant Provident Fund Commissioner, SRO, Vashi, under Section 7A of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (hereinafter referred to 'the Act'). The said order under Section 7A of the Act calls upon the petitioner to pay a sum of Rs.5,89,284/- towards the provident fund dues in respect of 20 employees for the period November, 2001 to May, 2008. The petitioner had unsuccessfully sought review of the order. Thereafter, he preferred the appeal to the Appellate Tribunal being ATA No.835(9) of 2009.

2. The petitioner had contended before the Appellate Authority that he had by his letter dated 22nd

July, 2005 informed the Assistant Provident Fund Commissioner that he has closed the establishment permanently with effect from 01st May, 2005. However neither the memo of appeal preferred by the petitioner nor the present petition discloses the details as regards closing down of the business. The Appellate Authority on the basis of the material before it has held that, in fact, there is no closing down of the business. There is only change of the address of the establishment. The earlier address of the petitioner was at A-2/203, Sector-20, Vashi, Navi Mumbai-400 705, whereas presently the petitioner operates his same business from Gupta House, Near Sanpada Railway Station, Navi Mumbai-400 703.

3. Mr. Mishra, the learned advocate for the petitioner submits that neither the order passed by the Assistant Provident Fund Commissioner under Section 7-A of the Act, nor the order of the Appellate Authority takes cognisance of payment of provident fund dues made for

the period upto year 2005. The petitioner has paid about Rs.2,00,000/- towards the Provident Fund dues. This according to him indicates non-application of mind. The second argument of Mr. Mishra is that the impugned order is not a speaking order and hence cannot be sustained. To emphasise the requirement of stating reasons for even a quasi-judicial order, Mr. Mishra, relies upon a judgment of this Court in case of ***M/s Pipe Arts India Pvt Ltd Vs. Shri Gangadhar Nathuji Golamare At and Post Sanaswadi & others, reported in CDJ 2008 BHC 673.*** He refers to the observations of paragraphs 8 and 19, in particular. The same read as follows:

> "8. The Supreme Court and different High Courts have taken the view that it is always desirable to record reasons in support of the Government actions whether administrative or quasi judicial. Even if the statutory rules do not impose an obligation upon the authorities still it is expected of the authorities concerned to act fairly and in consonance with basic rule of law. These concepts would require that any

order, particularly, the order which can be subject matter of judicial review, is reasoned one. Even in the case of Chabungbambohal Singh Vs. Union of India and others, (1995 (suppl) 2 SCC 83), the Court held as under : "His assessment was, however, recorded as "very good" whereas qua the appellant it had been stated unfit. As the appellant was being superseded by one of his juniors, we do not think if it was enough on the part of the Selection Committee to have merely stated unfit, and then to recommend the name of one of his juniors. No reason for unfitness, is reflected in the proceedings, as against what earlier Selection Committees had done to which reference has already been made."

"19. The court cannot lose sight of the fact that a losing litigant has a cause to plead and a right to challenge the order if it is adverse to him. Opinion of the court alone can explain the cause, which led to passing of the final order. Whether an argument was rejected validly or otherwise, reasoning of the order alone can show. To evaluate the submissions is obligation of the court and to know the reasons for rejection of its contention is a legitimate expectation on the part of the litigant. Another facet of providing reasoning is to give it a value of precedent, which can help in reduction of frivolous litigation. Paul D. Carrington, Daniel J. Meador and Maurice Rosengurg, Justice on Appeal 10(West 1976), observed as under :-

When reasons are announced and can be weighed, the public can have assurance that the correcting process is working. Announcing reasons can also provide public understanding of how the numerous decisions of the system are integrated. In a busy court, the reasons are an essential demonstration that the court did in fact fix its mind on the case at hand. An unreasoned decision has very little claim to acceptance by the defeated party, and is difficult or impossible to accept as an act reflecting systematic application of legal principles. Moreover, the necessity of stating reasons not infrequently changes the results by forcing the judges to come to grips with nettlesome facts or issues which their normal instincts would otherwise cause them to avoid.”

4. In my opinion, the order cannot be said to be a non-speaking order. The only claim of the petitioner was that on account of closing down of the establishment, he was not liable to meet the demand for the period subsequent to the year 2005. This claim has been considered in detail by the Appellate Authority. The petitioner had not raised any dispute as regards quantum of amount fixed by the authority and therefore, it was not necessary for the Appellate Authority to make any comment on the quantum.

5. For the above reasons and in the circumstance, that there is delay of about two years in filing the petition to challenge the impugned order, which delay is not explained, the petition is dismissed.

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