

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7137 OF 2012

Kalyan Dombivli Municipal
Corporation

.....Petitioner

: V/S :

The Regional Provident Fund
Commissioner and Ors.

.....Respondents

* * * * *

Mr. A.S. Rao, Advocate for the petitioner.

Mr. Suresh Kumar, Advocate for the respondent.

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

24th JUNE, 2015.

P.C. :-

1). Rule. Rule made returnable forthwith. By consent, the petition is taken up for hearing immediately.

2). This petition is directed against the order dated 20th October, 2010 dismissing the appeal preferred by the petitioner under the provisions of the Employees Provident Fund and Miscellaneous Provisions Act, 1952. The main complaint of the petitioner is that the appellate authority i.e. the Employees Provident Fund Appellate Tribunal, instead of considering the issue raised by the petitioner in the

appeal, has decided the question of applicability of the Act to the petitioner. Perusal of the memo of appeal produced by the petitioner and the impugned order confirms the grievance of the petitioner. In the circumstances, the impugned order cannot be justified and sustained and the appeal is required to be remanded to the appellate Tribunal for fresh hearing. Hence, the petition is allowed. The impugned order i.e. the order dated 20th October, 2010 passed by the Provident Fund Appellate Tribunal is set aside. ATA No. 842(9)/2005 is remanded to the Provident Fund Appellate Tribunal for fresh consideration and decision.

(SMT. R.P. SONDURBALDOTA, J)