

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

WRIT PETITION NO. 125 OF 2015

Force Motors Ltd. ... Petitioners

V/s.
Employees Provident Fund
Organization and ors. ... Respondents

Mr. Sudhir Talsania, Sr. Counsel, Mr. Vishal Talsania, Counsel, Mr. Sagar Sheth, Counsel, Mr. Sanjay Udeshi and Ms. Radha Ved, advocates i/b. Sanjay Udeshi & co. for the petitioner.

Mr. Suresh Kumar for respondents.

**CORAM : NARESH H. PATIL AND
A.S. GADKARI, JJ.**

3rd March, 2015.

P.C.

Heard learned Counsel for the parties.

2. The learned Senior Counsel submits that the petitioner company was an exempted establishment earlier named as Bajaj Tempo Pvt. Ltd. The Assistant Provident Fund Commissioner, Pune had granted a certificate on 20th January, 1998 in favour of Bajaj Tempo Pvt. Ltd. stating that it was an exempted establishment under Section 17(i) of the Employees Provident Fund & Miscellaneous Provisions Act, 1952 (hereinafter referred to as P.F. Act, 1952 for short). The exemption

number was mentioned as MH/ PUN/5354. The Learned Counsel further submits that by the impugned communication dated 16th December, 2014 the Regional Provident Fund Commissioner had in fact reached conclusion that the petitioners were not a exempted establishment.

3. The Counsel appearing for respondents- Regional Provident Fund Commissioner submits that petitioners are free to place necessary material before the concerned authority for determination as to whether the petitioners were an exempted establishment. The issue is not concluded and is open for the petitioners to place required material before the Regional Provident Fund Commissioner.

4. We observe that the petitioner may place before the Regional Provident Fund Commissioner available material in support of the submission, that petitioners were an exempted establishment under Section 17(i) of the P.F. Act, 1952. The Provident Fund Commissioner thereafter shall pass a brief reasoned order to decide as to whether the petitioners were an exempted establishment. All issues on merits are kept open. The authority shall complete the exercise within two months.

5. The observations made in the communication dated 16th December, 2014 saying that the petitioner establishment cannot be deemed to be an exempted establishment, would not be operative in view of aforementioned directions. We do not express any opinion on merits of the matter.

6. With aforesaid observations and directions, Writ Petition is

disposed of.

7. All concerned to act on an authenticated copy of the order.

(A.S. GADKARI, J.)

(NARESH H. PATIL, J.)

L.S. Panjwani, P.S.