

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5492 OF 2016

Yashodeep Swayam Rojgar Seva
Sahakari Sanstha Maryadit, Latur.
Tq. and Dist.Latur.
Through its Chairman.
Dattatraya s/o Nagorao Mohanalkar,
Age : 53 years, Occupation : Business,
Presently R/o Ujawala Terrace,
Plot No.20, Raikar Nagar,
Dyayari, Pune.

...PETITIONER

-VERSUS-

The Assistant Provident Fund
Commissioner, Employees Provident
Fund Organization, Cantonment Board
Building, Golibar Maidan,
Pune.

...RESPONDENT

...
Advocate for Petitioner : Shri Irpatgire A.N..
Advocate for Respondent : Shri K.B.Chaudhari.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 25th November, 2016

Oral Judgment :

1 Rule. Rule made returnable forthwith and heard finally by the
consent of the parties.

2 The Petitioner is aggrieved by the order dated 04.08.2015 delivered by the Employees Provident Fund Appellate Tribunal, New Delhi by which Appeal ATA No.30(9) of 2015 is dismissed for want of prosecution as the direction to pre-deposit an amount has not been complied with.

3 Shri Irpatgire, learned Advocate for the Petitioner, placed on record a communication from the State Bank of India dated 03.07.2015 addressed to the Recovery Officer-cum- Assistant Provident Fund Commissioner which is accompanied with the copy of the Demand Draft dated 03.07.2015 for an amount of Rs.61,03,962/-. The compilation of documents (three pages) is taken on record and marked as Exhibit X collectively for identification.

4 Shri Chaudhari, learned Advocate for the Respondent, confirms Exhibit X and submits that the entire amount assessed under Section 7A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (for short "the 1952 Act") is recovered from the Principal Employer. The amount of Rs.14 lac which is due from the Petitioner has also been recovered.

5 It requires no debate that under Section 7-O of the 1952 Act,

75% of the amount assessed under Section 7-A proceedings have to be deposited when an appeal is preferred under Section 7-I before the Appellate Tribunal. By the impugned order, the appeal has been dismissed for non prosecution as the mandate of Section 7-O was not complied with by the Petitioner.

6 Considering Exhibit X and the statements made by the learned Advocates, the entire amount has been recovered. In the light of the above, this Writ Petition is partly allowed. The impugned order dated 04.08.2015 is quashed and set aside and Appeal ATA No.30(9) of 2015 is remitted to the Employees' Provident Fund Appellate Tribunal, New Delhi. The litigating sides shall appear before the Tribunal on 19.12.2016 and shall continue to participate in the proceedings on the dates on which the Tribunal may post the matter for hearing. Formal notices need not be issued by the Tribunal to the litigating sides. Needless to state, all the contentions of the litigating sides are kept open for the Tribunal to decide on their own merits.

7 Rule is made partly absolute in the above terms.