

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1327 OF 2016**

M/s. Mahatma Gandhi Seva Mandir

..Petitioner

Vs.

Regional Provident Fund Commissioner & Anr

..Respondents

Mr. S. S. Pathak for the Petitioner

Mr. Suresh Kumar for the Respondents

CORAM : R. M. SAVANT, J.

DATE : 21st SEPTEMBER, 2016

P.C.

1 The Writ Jurisdiction of this court is invoked against the order dated 14-10-2015 passed by the Assistant Provident Fund Commissioner, Damages Cell, by which order the damages under Section 14-B of the Employees Provident Fund Act, came to be imposed upon the Petitioner in respect of the default in depositing the amount in the provident fund accounts mentioned in the table which has been reproduced in the said order. The said order also directs the payment of interest by the Petitioner under Section 7-Q of the said Act.

2 The Petitioner claims to be a charitable organisation which is providing medical facilities to the lower strata of the society. A notice dated 14-7-2015 came to be issued to the Petitioner asking the Petitioner to show cause as to why the proceedings under Section 14-B may not be initiated

against the Petitioner. To the said notice, a reply came to be addressed by the Petitioner to the Respondent i.e. the Regional Provident Fund office which reply is dated 25-8-2015. In the said reply in paragraph 4 the Petitioner sought framing of the issues mentioned therein which issues were revolving around whether the institution like the Petitioner was liable to pay interest and damages and whether there was any willful intention on the part of the Petitioner to avoid payment of contribution or willful default in payment of contribution, amongst the other issues. The Regional Provident Fund Commissioner though has referred to the said reply dated 25-8-2015 in the impugned order has not referred to the issues of which framing was sought by the Petitioner and has by the cryptic impugned order fastened damages as well as the payment of interest on the Petitioner. Since the Assistant Provident Fund Commissioner was exercising jurisdiction under Section 14-B of the said Act, the least that was expected was to address the issues that were raised by the Petitioner in the said reply dated 25-8-2015.

3 In my view therefore, the impugned order dated 14-10-2015 is required to be quashed and set aside and is accordingly quashed and set aside and the matter is relegated back to the provident fund authorities for a denovo consideration. Needless to state that the contentions of the Petitioner are kept open for being urged before the concerned authority who would hear the proceedings on remand.

4 With the aforesaid directions, the Writ Petition is disposed of.

5 The parties to act on a copy of this order duly authenticated by
the Court Shirestedar.

[R.M.SAVANT, J]