

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

WRIT PETITION STAMP NO.25074 OF 2016

**The Central Board of Trustees
Employees Provident Fund Organization
Through the Assistant P.F. Commissioner (Legal) : Petitioner.
versus
M/s. Shri Kutchi Visha Oswal : Respondent.**

**Mr. Suresh Kumar for the Petitioner.
Mr. A P Wachasundar for the Respondent.**

**CORAM : R. M. SAVANT, J.
DATE : 03rd October 2016**

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 17/05/2016 and the order dated 14/06/2016 passed by the learned Presiding Officer, Employees Provident Fund, Appellate Tribunal in Appeal No.576(9) of 2016.

2 By the first order i.e. the order dated 17/05/2016, the Tribunal has stayed the order dated 04/05/2016 passed under Section 14-B & 7-Q of the Employees Provident Fund & Miscellaneous Provisions Act, 1952 (for brevity sake "the said Act"). By the second order i.e. the order dated 14/06/2016 the Tribunal has issued notice to the Petitioner as to why action of contempt should not be adopted against the Petitioner for disobeying the directions as contained in the said order dated 17/05/2016 as also the

direction to de-attach the bank account of the Respondent herein i.e. the Appellant before the Tribunal immediately, failing which departmental inquiry was threatened.

3 In so far as the order dated 04/05/2016 passed in proceedings No.2016/31 is concerned, the same is referable to Section 14-B of the said Act, and in so far as the order dated 04/05/2016 passed in proceedings No.2016/32 is concerned, the same is referable to the order passed under Section 7-Q of the said Act. However, both the orders have been passed on 04/05/2016. In so far as Section 7-Q of the said Act is concerned, the same is not mentioned in Section 7-I of the said Act which provides for an Appeal. It is also well settled by the judgment of the Apex Court that an Appeal does not lie against an order passed under Section 7-Q of the said Act. A reference to the judgment of the Apex Court reported in (2013) 16 SCC 1 in the matter of Arcot Textile Mills Ltd. v/s. The Regional Provident Fund Commissioners and ors. can be usefully made. However, even though the order passed under Section 7-Q of the said Act bearing No.2016/32 was not challenged and could not be challenged under Section 7-I of the said Act, the learned Presiding Officer of the Tribunal has referred to even the said order passed under Section 7-Q in the order dated 17/05/2016 passed in the Appeal and has stayed the said order. The learned Presiding Officer has thereafter passed a further order dated 14/06/2016 on the said basis. How the learned Presiding Officer could

make a mention of the order passed under Section 7-Q of the said Act when there was not even a challenge to the said order in the Appeal, as the said order is not appealable, therefore begs an answer.

4 Be that as it may since the learned counsel appearing on behalf of the Respondent Shri Wachasundar fairly concedes that the Appeal is directed only against the order passed under Section 14-B i.e. the order bearing No.2016/31 dated 04/05/2016, the impugned order dated 17/05/2016 in so far as it makes a reference to the order passed under Section 7-Q would have to be quashed and set aside and is accordingly quashed and set aside. The consequences flowing out of the stay order as mentioned in the subsequent order dated 14/06/2016, would also have to be quashed and set aside and are accordingly quashed and set aside. The Respondent herein however would be at liberty to challenge the said order passed under Section 7-Q of the said Act by filing appropriate proceedings if so advised. The Appeal in question being ATA No.576(9) of 2016 would therefore be restricted only to the order passed under Section 14-B of the said Act. The Petitioner also would be entitled to proceed in accordance with law in so far as non-compliance of the order passed under Section 7-Q bearing No.2016/32 dated 04/05/2016 is concerned. With the aforesaid directions the above Writ Petition is disposed of.

[R.M.SAVANT, J]