IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION STAMP NO.25590 OF 2016

M/s. Parekh Platinum Ltd. : Petitioner.
versus
Assistant Provident Fund Commissioners and
Assessing Officer, Regional Office, Thane & ors. : Respondents.

Mr. Atul A Kore for the Petitioner.
Mr. Suresh Kumar for the Respondent No.1.

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

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 26/07/2016 passed by the Assistant Provident Fund Commissioner, Regional Office, Mumbai-II, Thane (for short "APFC"). By the said order the damages under Section 14-B and interest under Section 7-Q of the Employees Provident Fund & Miscellaneous Provisions Act, 1952 (for brevity sake "the said Act") came to be levied on the Petitioner. In so far as the damages levied under Section 14-B are concerned, the Petitioner has filed an Appeal under Section 7-I of the said Act. Since no Appeal is available against the order passed under Section 7-Q, the Petitioner has filed the instant Petition challenging the order in so far as it relates to the levy of interest under Section 7-Q of the said Act.

2 The delay in remittance is for the period from February 2002 to

February 2009 and from October 2009 to March 2016. To the summons issued to the Petitioner, a annexure has been annexed whereby the delay which has occurred in remitting the amount has been disclosed. The delay is ranging between the period of one month to more than 2 years during the said period of February 2002 to February 2009 and from October 2009 to March 2016. In view of the said delay the provision relating to interest i.e. Section 7-Q becomes applicable. The Petitioner therefore has become liable to pay interest for the delay in remittance under Section 7-Q. In so far as the order under Section 7-Q is concerned, the contention urged by the learned counsel for the Petitioner is that the assets of the Petitioner have been taken over by Kotak Mahindra under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and therefore the said fact was a relevant circumstance whilst levying interest on the Petitioner under Section 7-Q of the said Act.

3 The aforesaid contention raised by the Petitioner cannot be countenanced in view of Section 17-B of the said Act wherein both the transferor and the transferee are liable to pay dues up to the date of transfer and thereafter the transferee become liable. It seems that the Provident Fund Authorities have issued notice both to the Petitioner and the said Kotak Mahindra or its transferee. Even if all the assets of the Petitioner are sold, the Petitioner would still be liable for damages as well as interest on the delayed

remittance as the benefit has ultimately to go to the employees who were working for the Petitioner. Hence the order passed by the APFC levying interest under Section 7-Q cannot be found fault with. No case for interference in the writ jurisdiction of this Court is therefore made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]