IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 131 OF 2015
IN
WRIT PETITION NO. 5434 OF 2015
ALONG WITH
CIVIL APPLICATION NO. 2905 OF 2015

Colour Tek … Petitioner

v/s

Asstt. Provident Fund Commissioner
(Compliance); & anr. … Respondents

Mr.A.P.Wachasundar for the petitioner in Review Petition and applicant in Civil Application No.2905 of 2015.

Mr.Suresh Kumar along with Ms.Sangeeta Yadav for the respondents.

CORAM: N.M. JAMDAR, J.

DATED : 15 MARCH 2016

P.C.:

The review is sought of the order dated 15 September 2015. The order was passed by making the following observations :

> *'3. Even assuming an indulgence is to be granted to the Petitioner to be given a hearing, considering the fact that the Petitioner has invoked equitable jurisdiction of this Court and considering the nature of the amount involved, it was put to the learned for the Petitioner as to whether Petitioner*

> *is ready to deposit some amount, without prejudice to its rights and contentions. The matter thereafter was adjourned twice to take instructions. When the matter is called out today, learned counsel for the Petitioner submitted that the ground of deposit can be left to the authorities to decide and if they insist on deposit then it would be a different matter, but at this stage the Petitioner should not be directed to deposit any amount. Such submission is stated to be rejected. It is the the equitable jurisdiction of this Court that the Petitioner is invoking. In spite of the service of Police summons on the Petitioner, if the Petitioner does not remain present and thereafter seeks indulgence of this Court, the least that is expected to offer to deposit some amount, if not the full amount, to show its bonafide. In spite of repeatedly putting a query to the learned counsel for the Petitioner, the learned counsel flatly refused to make any commitment to deposit even single naya-paisa. In the circumstances, it is clear that the conduct of the Petitioner is not bonafide and the only object is to avoid paying the liability under the Act.'*

2 The order under review had to be passed because even after giving adequate opportunities and repeatedly adjourning the matter, no deposit from the Petitioner was coming-forth. After the writ petition was dismissed, review petition is filed and an amount of ₹1,00,000/- is stated to be deposited. The dues as on the date, when the writ petition was filed, was more than ₹10,00,000/-. Merely because now the Petitioner seeks to deposit some amount, the order passed on 15 September 2015, cannot be recalled keeping in mind the limited jurisdiction to entertain the review petition. The proceedings in the Court, especially the one under equity jurisdiction, are not for taking chances. Adequate opportunity was already given to the Petitioner to show his

bonafides. As it has been rightly pointed out by the learned counsel for the Respondent that before showing indulgence, the beneficial object of the statute will have to be kept in mind. Time and again this Court has noticed various tactics adopted by the employer not making deposit of the provident fund amount, which is for the benefit of the employees. The employer at his whims and fancies cannot decide when he will make the deposit and then seek review of the order which was passed after giving full opportunity. Such tactics must be curbed.

3 The review petition, therefore, cannot be entertained and is rejected. The civil application also stands disposed of.

4 As far as the deposit made by the Applicant in the Court, it is open to the Applicant to withdraw the same if it chooses to do so.

(N. M. JAMDAR, J.)