

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

**CIVIL APPLICATION NO. 3109 OF 2016
IN
WRIT PETITION NO. 12803 OF 2016**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. T.S. Shetty i/b Santosh Shetty for the Applicant.
Ms. Sangeeta Yadav i/b Suresh Kumar for the Respondent.

**CORAM : K. K. TATED, J.
DATED : 16/12/2016**

PC.:

. Heard learned Counsel for the parties.

2 This application is preferred by Respondent Company to allow them to withdraw a sum of Rs.22,75,841/- deposited by the Petitioner/the Central Board of Trustees, Employees Provident Fund Organisation.

3 Pursuant to the order dated 18.11.2016, the learned counsel for the applicant submits that in the present proceeding, the Presiding Officer, Employees Provident Fund Appellate Tribunal, New Delhi in Appeal No. ATA 728(9) 2011 by order dated 02.05.2016 directed petitioner to refund the amount recovered from the applicant establishment on the basis of the order dated 28.02.2011 and order dated

01.08.2011 passed by the Regional Provident Fund Commissioner under Section 7A and 7B respectively under the Employees' Provident Fund & Miscellaneous Provisions Act, 1952.

3 The learned counsel for the applicant submits that in spite of order passed by the Appellate Authority on 02.05.2016, the petitioner failed and neglected to refund the said amount. He submits that this Court by order dated 18.11.2016 directed the petitioner to deposit the said amount in the Registry of this Court. The learned counsel for the applicant submits that applicant may be allowed to withdraw the said amount during the pendency of the present Writ Petition. He submits that actually applicant company is not liable to pay any provident fund in spite of that same was recovered.

4 The learned counsel for the petitioner submits that they have no objection if the Civil Application is allowed, but subject to the undertaking from the applicant company that if this Court called upon them to bring the entire amount with interest then they will do the same within stipulated time.

5 The learned counsel for the applicant submits that they are ready and willing to file affidavit-cum-undertaking of their company stating that they will bring the entire amount with interest in this Court, if this Court passes order at the time of hearing of Writ

Petition. Statement is accepted.

6 It is to be noted that in the present proceeding, Employees Provident Fund Appellate Tribunal by order dated 02.05.2016 directed the petitioner to refund the amount recovered by them from the applicant.

7 As the learned counsel for the applicant is ready and willing to file undertaking of the company for bringing the entire amount in this Court if the order passed to that effect, I am satisfied that applicant has made out case for allowing this Civil Application.

8 Hence, following order is passed:

a) Applicant is permitted to withdraw a sum of Rs.22,75,841/- along with accrued interest, if any, by providing affidavit-cum-undertaking of applicant /company stating that in case this court passes order for directing them to bring the entire amount in the Court with interest that they will do within stipulated time.

b) It is not necessary for the applicant to provide any security and/or bank guarantee for withdrawal.

c) Civil application stands disposed off accordingly.

(K.K.TATED, J.)