IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.1204 OF 2017
(M/s Bansilal Ramdayal Oil Mill Vs. The Central Provident Fund Commissioner and others)

Mr.Y.V.Kakade, Advocate for the petitioner.
Mr.K.B.Choudhari, Advocate for respondents.
Respondent No.1 is deleted.

(CORAM : RAVINDRA V. GHUGE, J.)
DATE : 06/02/2017

PER COURT :

1. Leave to delete respondent No.1 is granted. Deletion be carried out forthwith.

2. The petitioner is aggrieved by the order dated 24/10/2016 by which an amount of Rs.50,278/- is sought to be recovered from the petitioner.

3. I have heard the learned Advocates for the petitioner and the A.P.F.C. Nasik.

4. The impugned order is passed u/s 7-C of the E.P.F. and M.P.Act, 1952. Section 7-C reads as under :-

"7-C ***Determination of escaped amount***

Where an order determining the amount due from an employer *under section 7-A or section 7-B has been passed and if the Officer who passed the order -*

(a) has reason to believe that by reason of the omission of failure on the part of the employer to make any document or report available, or to disclose, fully and truly, all material facts necessary for determining the correct amount due from the employer, any amount so due from such employer for any period has escaped his notice ;

(b) has, in consequence of information in his possession, reason to believe that any amount to be determined under section 7-A or section 7-B has escaped from his determination for any period notwithstanding that there has been no omission or failure as mentioned in Clause (a) on the part of the employer,

he may, within a period of five years from the date of communication of the order passed under section 7-A or section 7-B, re-open the case and pass appropriate orders re-determining the amount due from the employer in accordance with the provisions of this Act:

Provided that no order re-determining the amount due from the employer shall be passed under this section unless the employer is given a reasonable opportunity of representing his case."

5. It is, therefore, apparent that Section 7-C permits the EPF Authorities to redetermine the amount u/s 7-A or Section 7-B if it believes that some amount has escaped the attention of the EPF Authorities and that was not considered while determining the

recovery u/s 7-A. Limitation for doing so, is 5 years. The order u/s 7-A was passed on 03/02/2014 which has not been challenged by the petitioner. Notice was issued u/s 7-C on 26/08/2015 which is within 5 years.

6. In the light of the above, taking into account the power vested in the EPF Authorities u/s 7-C, it has redetermined the amount and as such the order u/s 7-A stands reviewed. The impugned order dated 24/10/2016 is, therefore, deemed to be an order passed u/s 7-A by taking recourse to Section 7-C.

7. After this matter was heard on 01/02/2017, the petitioner was called upon to make a statement whether he would be depositing the entire amount in this Court. Learned Advocate submits on instructions from the petitioner that it does not desire to deposit the said amount.

8. A statutory remedy of approaching the Appellate P.F.Tribunal at Delhi u/s 7-I is available to the petitioner.

9. Considering the above and the effect of Section 7-I r/w 7-O, this petition cannot be entertained and is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)