

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

WRIT PETITION NO.5650 OF 2016

Central Board of Trustees, EPF ... Petitioner
versus
Pune Mahanagar Parivahan Mahamandal ... Respondent

**WITH
WRIT PETITION NO.8246 OF 2016**

Central Board of Trustees, EPF ... Petitioner
versus
Pune Mahanagar Parivahan Mahamandal ... Respondent

Mr. Suresh Kumar, for Petitioners.
Mr. Parag Dube, for Respondents.

CORAM: S.J. KATHAWALLA, J.

DATE: 12th OCTOBER, 2017

P.C.:

1. Perused the orders dated 7th June, 2013 passed by the Presiding Officer, Employees Provident Fund Appellate Tribunal, New Delhi. Both the parties agree that the 7A proceedings were not pending on the date when the impugned orders were passed. However, the Presiding Officer has incorrectly recorded in his orders that the 7A proceedings are still pending and the dues are yet to be assessed. The Advocate for the Respondents has submitted on instructions that the dues were paid by the Respondents under protest. In paragraph No.5 of the impugned orders, the Presiding Officer has stated that before adjudicating and deciding the quantum of

damages, the Enforcement Officer of the Respondent Department had determined the damages and raised a demand to this effect; when the Appellant opposed the levy of damages, the Respondent authority initiated proceedings under Section 14B of the Act; under the Act, **the Respondent authority is expected to adjudicate and decide the quantum of damages after hearing the Appellant.** Admittedly, the Respondent authority had adjudicated and decided the quantum of damages after hearing the arguments. It therefore appears that the Presiding Officer (EPFAT) has whilst passing the orders missed out certain relevant facts. In view thereof, the Advocates for the parties have agreed that without prejudice to the rights and contentions of the parties, the impugned orders dated 7th June, 2013 may be set aside and the matters may be remanded back to the Presiding Officer (EPFAT). Hence, the following order :

(i) Without prejudice to the rights and contentions of the parties, the order dated 7th June, 2013 passed by the Presiding Officer (EPFAT) are set aside and the Presiding Officer (EPFAT) is directed to hear and dispose off A.T.A.No.145 (09) of 2012 and A.T.A.No.146(09) of 2012 within a period of 12 weeks from the date of this order.

(ii) The above Writ Petitions are accordingly disposed off.

(S.J.KATHAWALLA, J.)