

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.1896 of 2017

M/s B.E. Billimoria & Co. Ltd. ... Petitioner
Versus
Assistant Provident Funds Commissioner
Employees Provident Funds Organization ... Respondent

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Mr. A.P. Wachasundar for the Petitioner.
Mrs. S.V. Bharucha for the Respondent.

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CORAM : PRASANNA B. VARALE, J.

DATE : 28 SEPTEMBER 2017

P.C. :

. Heard Mr. Wachasundar, learned Counsel appearing for the Petitioner. The Petitioner challenging the order passed by the Assistant Provident Fund Commissioner dated 26 May 2017. The submission of the learned Counsel is that as there was no forum available like an Appellate Forum to challenge the order of the Assistant Provident Fund Commissioner, the Petitioner was left with no choice but to approach this Court. Mr. Vachasundar, learned Counsel by inviting my attention to the order of this Court dated 4 July 2017 submitted that the Petitioner was directed to deposit certain amount. Mr. Wachasundar submits that the Petitioner deposited this amount and an affidavit of compliance is also

placed on record alongwith copies of challan and acknowledgment. The affidavit is taken on record. Learned Counsel submits that copy of the affidavit along with annexures is already supplied to the learned Counsel appearing for the Respondent. Learned Counsel appearing for the Respondent also places on record an affidavit filed through Assistant Provident Fund Commissioner (Legal). The same is also taken on record. It may not be necessary for this Court to go into other details, as learned Counsel for the petitioner vehemently submitted that subsequent to filing of the petition, the forum is made available to challenge the order passed by the Assistant Provident Fund Commissioner and the same is CGIT-II and CGIT-II, Bombay is operational and functioning for decision on the proceedings seeking challenge to the order passed by the Assistant Provident Fund Commissioner.

2 Learned Counsel for the Respondent is not disputing the factual position submitted by learned Counsel Mr. Wachasundar. Mr. Wachasundar, then submits that the Petitioner had also filed an application seeking waiver of pre-deposit under Section 14(b) before the Authority. Considering these facts, I am of the opinion that as the forum is available, the Peti

tioner can avail the alternate remedy and approach the appropriate forum. The petition is disposed of with direction to the tribunal to decide the proceeding submitted by the Petitioner as expeditiously as possible including the application seeking waiver on its own merits, needless to state that by giving opportunity of hearing to the otherside.

3 The Petitioner deposited the amount in compliance of the order dated 4 July 2017, as the forum is available and the proceedings can be decided by the forum, namely, CGIT-II, Bombay, the amount deposited in this Court by the Petitioner and referred to in the affidavit page-2, be transferred to the Office of CGIT-II, Bombay.

4 The protection granted by this Court to the Petitioner by way of clause 3 of the order dated 4 July 2017 shall remain in operation for a period of one week from today.

5 The petition is disposed of accordingly.

(PRASANNA B. VARALE, J.)