

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5273/2015

(M/S SATJAS GLORCKS PVT.LTD. **VERSUS** ASSISTANT PROVIDENT FUND COMMISSIONER,
 NAGPUR)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri S.R. Bhongade, counsel for the petitioner.

CORAM : SMT. VASANTI A NAIK, J.

DATE : JANUARY 30, 2017.

By this writ petition, the petitioner challenges the order of the Assistant Provident Fund Commissioner, Nagpur, dated 17.11.2004 under Section 7-A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952.

Shri Bhongade, the learned counsel for the petitioner, states that though the impugned order was passed in the year 2004, the petitioner was not aware about it till the year 2015, when the order was sought to be implemented. It is stated that the petitioner received a copy of the order under the provisions of the Right To Information Act. It is stated that the impugned order is liable to be set aside as no opportunity of hearing was granted to the petitioner.

There is no merit in the only submission made on behalf of the petitioner. The order of the authority under Section 7-A of the Act clearly depicts that a notice was indeed issued to the petitioner and before passing the impugned order, the authority ensured that the petitioner was duly served. It further appears from the order that after the summons were served on the petitioner, the authority adjourned the matter on two occasions with a clear

understanding that if the petitioner fails to attend the enquiry, an *exparte* order would be passed against the petitioner under Section 7-A of the Act. It appears that the petitioner has not taken any pains to defend the proceedings under Section 7-A of the Act. It further appears that though the order was passed in the year 2004, the petitioner did not challenge the same before the appellate authority under the Act, within the prescribed period of limitation. After the order is sought to be implemented, the petitioner has belatedly approached this Court challenging the impugned order. In the circumstances of the case, there is no reason to interfere with the impugned order, more so when an alternate remedy is provided to the petitioner, under the provisions of the Act of 1952.

Since there is no merit in the only submission made on behalf of the petitioner, the writ petition is dismissed with no order as to costs. The points raised in the petition are, however, kept open.

JUDGE

APTE