

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

WRIT PETITION NO.102 OF 2018

M/s. N. T. Kadu

.. Petitioner

Vs.

The Assistant Provident Fund

Commissioner

.. Respondent

Mr. A.P. Wachasundar for the petitioner.

Mr. Suresh Kumar for the respondent.

CORAM : A.K. MENON, J.

DATED : 10TH JANUARY, 2018.

P.C. :

1. By this writ petition, the petitioner challenges an order dated 17th November, 2017 passed under Section 7B of the Employees Provident Fund (Miscellaneous Provisions) Act. The main ground of the challenge is that the notice fixing the date of hearing which was scheduled on 17th November, 2017 was in fact dispatched only on 18th November, 2017, it is seen to be booked on 18th November, 2017 i.e. the date following for fixing the hearing and the same was delivered on 20th November, 2017,
2. Mr. Wachasunder, the learned counsel appearing for the petitioner relied upon the tracking report issued by the department of posts.

Having considered this, Mr. Suresh Kumar, the learned counsel for the respondent no.1, on instructions, states that the contention in the petition is correct and that the notice of hearing was probably dispatched after the date of hearing. In any case, it is admitted that the notice was received only on 20th November, 2017 after passing of the impugned order. In the circumstances, he submits that the impugned order may be set aside.

3. In view of the same, I pass the following order:-

- (i) Impugned order dated 17th November, 2017 Exhibit C is hereby set aside.
- (ii) Respondent shall now hear the petitioner on 16th January, 2018 or such other date that may be fixed by the authorities and to pass an appropriate orders.

(A.K. MENON,J.)