

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2006 OF 2019**

M/s. Bombay Rayon Fashion Ltd.

.. Petitioner

Vs.

Regional Provident Fund Commissioner

.. Respondent

Mr. Meelan Topkar for the Petitioner.

Mr. Suresh Kumar a/w. Ms. Mohinee Chougale for the Respondent.

CORAM : A.K. MENON, J.

DATED : 13th FEBRUARY, 2019.

P.C. :

1. This petition challenges order dated 20th November, 2018 passed by respondent under section 14B and 7Q of the Employees Provident Fund Act and Miscellaneous Provisions Act, 1952. No appeal has been filed. The reason for moving the present petition is that the appellate tribunal which is Central Government Industrial Tribunal-(I)(CGIT -I) Mumbai is vacant. However CGIT-II is stated to be functional. It is stated across the bar that charge of matters to be adjudicated by CGIT I has not been handed over to CGIT II.

2. This is not the first matter being filed in this Court for the above reason i.e. non availability of the tribunal. The petitioners are aggrieved by

the impugned order which has resulted in their bank account with Axis Bank Limited being attached.

3. Mr. Topkar submits that as against total sum of Rs.2,57,31,049/- the petitioner is willing to deposit a sum of Rs. 1,00,00,000/-(Rupees One Crore only) forthwith. The said amount will wipe out the interest liability of Rs.84,57,241/-.The balance after appropriation towards interest, he submits may be appropriated towards amount claimed under section 14B.

4. In view of the above this petition can be disposed at this stage itself. As far as respondent is concerned Mr. Suresh Kumar had submitted to orders of the Court. In view of the above I pass the following order :

(i) Petitioner shall deposit a sum of Rs.1,00,00,000/- (Rupees one crore only) on or before 15th February, 2019 with the Regional Provident Fund Commissioner, Thane.

(ii) Upon deposit of Rs. 1,00,00,000/-(Rupees one crore only) the attachment levied shall stand raised and the respondent shall communicate the fact that the attachment stand realised to the concerned branch of Axis Bank Limited.

- (iii) The respondent shall appropriate from the amount of Rs. 1,00,00,000/-, Rs.84,57,241/- towards interest. The balance will be appropriated against damages assessed under section 14B.
- (iv) The petitioner shall file an appeal under the Act on or before 28th February, 2019 restricted to order under section 14B.
- (v) In the event CGIT (I) is not available it will be the interest of the respondent themselves to ensure that the appeal is heard at the earliest. In the circumstances it will be open for the respondent to move the CGIT (II).
- (vi) The impugned order dated 20th November, 2018 under section 14B shall remain stayed upto 31st March, 2019 in order to enable the petitioner to move the appeal. In the event the appeal is filed respondent is at liberty to mention the same before CGIT II which will then take it up and hear it at a convenient date.
- (vii) Liberty to apply for continuation of the stay before CGIT II.
- (viii) Petition disposed of in the above terms.

(A.K. MENON,J.)