

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

WRIT PETITION NO. 809 OF 2020

M/s.Afcons Infrastructure Ltd.

...Petitioner

vs.

The Regional Provident Fund Commissioner-I, Mumbai ...Respondent

Mr.Aumkar V. Joshi for Petitioner.

Mr.Suresh Kumar for Respondent.

CORAM : S.C. GUPTE, J.

DATE : 25 FEBRUARY 2020

P.C. :

Heard learned Counsel for the parties.

2 This writ petition challenges two orders passed by the Regional Provident Fund Commissioner under Sections 14B and 7Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ('Act'). It is apparent from the record of the case that the inquiry, in which the impugned orders came to be passed, was initiated in pursuance of a Show Cause Notice dated 5 July 2016. This show cause notice was for hearing under Section 14B and Section 7Q for belated remittances made during the period from 1 August 2012 to 31 March 2015. The impugned orders, on the other hand, are passed in respect of the period from March 2012 to July 2012. The impugned orders show damages as ordered under Section 14B and interest under Section 7Q of the Act for failure to remit Provident Fund contributions for the period between March 2012 and July 2012 and also between March 2009 and February 2011, both of which are anterior to the period mentioned in the show cause notice. This is obviously

impermissible. The impugned orders, accordingly, cannot be sustained and deserve to be quashed and set aside.

3 The impugned orders passed by the Provident Fund Commissioner on 31 December 2019 under Sections 14B and 7Q of the Act are, accordingly, quashed and set aside. The Provident Fund Organisation shall be at liberty to issue a fresh show cause notice for the respective periods, namely, March 2009 to February 2011 and March 2012 to July 2012, and hold an inquiry in pursuance of any such notice and pass appropriate orders.

4 The writ petition is disposed of accordingly.

(S.C. GUPTE, J.)

Sanskriti
A. Thakur

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by Sanskriti A.
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