IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7344 OF 2021

M/s. Silver Jubilee Motors Ltd., Pune ... **Petitioner**

V/s.

Regional Provident Fund Commissioner II
EPFO & Anr. ... **Respondents**

Mr. Rohan Agrawal a/w. Ativ Patel, Mr.Darshit Dave & Mr. Harshad Vyas i/b. AVP Partners, Advocate for the Petitioner.

Mr. Suresh Kumar a/w. Ms. Mohinee Chougule, Advocate for the Respondent No.1.

Mr. P. V. Nelson Ranjan, AGP for the Respondent No.2/State.

C0RAM : G. S. KULKARNI, J.

DATE : OCTOBER 29, 2021

PC :

1 Leave to amend the prayer clause in terms of the draft amendment tendered on record. The amendment be carried out during the course of the day.

2 Heard Mr. Agrawal, learned Counsel for the petitioner and Mr. Suresh Kumar, learned Counsel for the respondent No.1.

3. The challenge in this petition is to the notices issued under Section 8-F(3) of the Employees’ Provident Funds and Miscellaneous Provisions Act

1952 (for short, “the Act”) dated 16th September 2021 and 6th October 2021 issued by the Assistant P. F. Commissioner, Regional Office, Pune (Exhibit “A”Colly. Page 29) attaching the bank accounts of the petitioner held with the banker(s) of the petitioner directing the said banks, that the amount as set out in such orders be remitted to the said authority on the ground that the petitioner is required under Section 7(A)(1)(b) of the said Act to deposit the said amount in discharge of the EPF liability.

4. Learned Counsel for the petitioner has pointed out that an order under Section 7(A)(1)(b) of the said Act was passed against the petitioner on 28/06/2021 without a full-fledged inquiry. He has stated that the petitioners have filed an appeal before the Central Government Industrial Tribunal-cum-Labour Court No.2, Mumbai (for short, “CGIT”) on 8th October 2021. According to the learned Counsel for the petitioner, as there was delay in filing of such appeal which is of about 34 days, along with such appeal a separate application praying for condonation of delay has been filed. It is submitted that there is also a separate application filed by the petitioner for waiver of the deposit under Section 7-O of the said Act. Learned Counsel for the petitioner has submitted that such proceedings are pending before the CGIT, however in the intervening period, the impugned notices dated 16 September 2021 and the notice dated 6th October 2021 has been issued by the respondents to the bankers of the petitioner, with whom the petitioner

holds its bank accounts, demanding an amount of Rs.2,30,57,407/-. It is his submission that the impugned notices are causing a serious prejudice to the rights and contentions of the petitioners, when payments are required to be made to the employees and workers and for the festive season.

5 The learned counsel for the petitioner, on instruction of his clients states that his client is ready and willing to make a statement that in respect of one of the showroom the details of which are set out as under, the petitioner would not create any third party rights till appropriate orders are passed by the CGIT in the pending proceedings. The details of the immovable properties are as under :

Silver Jubilee Motor Limited Baramati,
C-44A, Baramati Industrial Estate, Bhigwan Road,
Baramati, Mahararashtra – 413102.

6 In my opinion, such a statement, in the facts and circumstances of the case, more particularly when the petitioner is yet to be heard on the proceedings filed by him before the CGIT in its assail to the order dated 28th June 2021 passed under Section 7A of the said Act before the CGIT would also serve the interest of the workers to protect the EPF dues.

7 On the other hand, Mr.Suresh Kumar, learned counsel for respondent no.1 states that the proceedings before the CGIT as filed by the petitioner are pending, it would be appropriate that, for any grievance, the petitioner moves

the CGIT. It is, hence, his submission that no interference in the present proceedings is called for.

8 Having heard learned counsel for the parties, and having pursued the record, in my opinion, the statement as made on behalf of the petitioner that the petitioner would not create any third party rights in respect of its premises as noted above, should protect the interest in regard to EPF dues payable by the petitioner. However, the attachment of the bank accounts in the facts of the case appears to be certainly causing prejudice to the petitioner and more particularly when the payments are to be made to the workers, and other expenditures are to be incurred by the petitioner cannot be undertaken by such attachment of the petitioners' bank accounts. In my opinion, thus accepting the statement as made on behalf of the petitioner, the proceedings can be disposed of, by permitting the petitioner to move the CGIT in the proceedings pending before it.

9 The petition is accordingly disposed of by the following order :

(i) The impugned attachment orders dated 16th September 2021 and 6th October 2021 (Exhibit "A" Colly.) are quashed and set aside in view of the statement as made on behalf of the petitioner that the petitioner shall not create third party right in respect of its immovable property/showroom Silver Jubilee Motor Limited

Baramati, C-44A, Baramati Industrial Estate, Bhigwan Road, Baramati, Mahararashtra – 413102, till appropriate orders are passed by the CGIT in the pending proceedings. The statement, as made on behalf of the petitioner, is accepted as an undertaking to the Court.

(ii) The petitioner is directed to approach the CGIT, Mumbai – I on 15th November 2021 on 11.00 a.m.

(iii) Liberty to the petitioner to make an application to the CGIT to take up the hearing of applications filed by the petitioner for condonation of delay and for waiver. If such application is made, the leaned Presiding Officer of CGIT shall take up the petitioner's proceedings and pass appropriate orders as expeditiously as possible and in any event within a period of two weeks from the date of hearing.

(iv) All contentions of the parties in the pending proceedings before the CGIT are expressly kept open.

(v) Disposed of in above terms. No costs.

(vi) Parties to act on authenticated copy of this order.

(G. S. KULKARNI, J.)