IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1013 OF 2022

Municipal Corporation of Greater Mumbai	]]	…	Petitioner

Vs.

The Regional Provident Fund Commissioner (I).	]]	…	Respondent

…

Mr. A.S. Peerzada with Mr. Santosh Parad and Mr. Om Suryavanshi for the petitioner.

Ms. Shehnaz Bharucha for the respondent.

…

CORAM : RAVINDRA V. GHUGE, J.

DATED : 08TH FEBRUARY, 2022.

P.C. :-

1. I have heard the learned counsel for the petitioner and the learned counsel on behalf of respondent-RPFC. I have gone through the petition paper-book.

2. The issue is that the petitioner claims to be a principal

employer. It has been consistently praying before the appropriate authority, dealing with Section 7-A enquiry under the Employees Provident Funds & Miscellaneous Provisions Act, 1952, that the 138 NGOs/Contractors have been depositing the PF contributions. If they have been paying the PF contributions, the principal employer need not pay their contributions.

3. It is well settled that if the contractor or the agency, which deploys labourers on contract basis with the principal employer, does not pay the PF contributions of the contract labourers, it would be the obligation of the principal employer to pay the contributions and recover the same from the contractors. The grievance is that, as all the relevant records are with the contractors insofar as their contributions towards their employees are concerned, the competent PF authority should atleast impartially investigate, while conducting the 7-A enquiry, so that double payment can be avoided.

4. The learned advocate for the respondent submits that the court may pass an appropriate order.

5. In view of the above, this petition is partly allowed. The proceedings bearing No.CGIT/2/EPFA/23/2018 pending before the appellate authority, which is presently said to be vacant, would not survive and stands disposed off.

6. The petitioner shall appear before the respondent on 18/02/2022 at 12.00 noon. On the same date, a complete list of the contractors / NGOs along with their addresses, e-mail addresses and the persons, through whom they can be served, would be tendered to the respondent, if not already tendered. The e-mail addresses and the telephone numbers shall be mentioned to the respondent, so that the notices can be issued even through e-mail service.

7. The respondent would add the contractors to the extent of the workers that are deployed by them with the petitioner and conduct an independent 7-A enquiry after issuing notices to the contractors. Reasonable opportunity of hearing would be granted to the parties.

8. The pendency of the above proceedings will not be a ground for the contractor or the principal employer for evading regular monthly deposits of the PF contributions.

9. It be noted that none of the parties to the hearing under Section 7-A would unnecessarily seek adjournments and, if the respondent-PF authority notices that adjournments are being sought on trivial grounds, it would impose cost on the parties, seeking such adjournments. It is expected that the 7-A enquiry would be concluded or or before 30/06/2022.

10. Needless to state that the petitioner as well as the contractors would fully co-operate in the hearing before the PF authority and, the issue as to whether the petitioner is rightly arrayed in the enquiry or not, shall not be taken up as the petitioner is a necessary party (if the contractor does not pay the PF contributions of the contract labourers) to the Section 7-A proceedings.

[RAVINDRA V. GHUGE, J.]