

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

WRIT PETITION NO. 9646 OF 2022

**M/s Teleperformance Global
Services Pvt. Ltd.**

} Petitioner

versus

**Employees Provident Fund
Organisation & Ors.**

} Respondents

Mr. Sudhir Talsania, Senior Advocate with Mr. Vishal Talsania, Mr. Saumitra Singhal, Mr. Jigar Kamdar i/b Jigar Kamdar and Associates, for the petitioner.

Ms. S. V. Bharucha for respondents no. 1 & 2.

**CORAM: DIPANKAR DATTA, CJ. &
ABHAY AHUJA, J.**

DATE: DECEMBER 8, 2022.

P.C.:

1. This writ petition is directed against a notice dated 28th June, 2022 passed by the respondent no.2, the Regional Provident Fund Commissioner-II, Kandivali (W), Mumbai. By such order, the respondent no.2 required the petitioner to make payment of Rs. 14,00,63,857/- towards the dues assessed under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 ("the Act") within seven days.

2. A perusal of the impugned notice, issued in exercise of power conferred by Section 8F of the Act, reveals that it is not the petitioner but one M/s Agile Security Force and Systems Private Limited, which has defaulted in payment of provident fund and allied dues assessed under Section 7A of the Act, amounting to Rs. 14,00,63,857/- for the period between April 2017 and March, 2021. The respondent no.2, being seized of information that the petitioner owes certain money towards

outstanding bills to M/s Agile Security Force and Systems Private Limited, was called upon to make payment apart from being prohibited and restrained from making any payment to M/s Agile Security Force and Systems Private Limited.

3. Immediately after receipt of the impugned notice, the petitioner made a representation dated 9th July, 2022 in terms of clause (vi) of sub-section (3) of Section 8F of the Act repudiating the claim of the respondent no.2. In paragraph 8 thereof, it was specifically pleaded that the petitioner does not owe any money to M/s Agile Security Force and Systems Private Limited and hence, is not liable to pay the amount of Rs. 14,00,63,857/- as mentioned in the impugned notice.

4. Alleging that the representation dated 9th July, 2022 has not been considered, the petitioner is before us with this writ petition seeking an order for quashing of the impugned notice dated 28th June, 2022.

5. Mr. Talsania, learned senior advocate for the petitioner contends that there is no basis for issuance of the impugned notice.

6. Ms. Bharucha, learned advocate appears for the respondent no.2. She submits that she has no definite instructions as to whether any order has yet been passed by the respondent no.2 on the representation dated 9th July, 2022.

7. A conjoint reading of clauses (vi) and (vii) of sub-section 3 of Section 8F of the Act reveals that upon an objection being raised by a noticee, the authority issuing the notice may amend or revoke the same. In view of such provision, we are of the considered opinion that this writ petition need not be kept pending for a decision since a factual determination is

required as to whether, in fact, the petitioner owes any money to M/s Agile Security Force and Systems Private Limited and has paid any money after the impugned notice was issued.

8. Having read the impugned notice, we have not been able to locate any particular reference to a document or other evidence from which an opinion could be formed that the petitioner owes money to M/s Agile Security Force and Systems Private Limited. Since a factual determination is required, we remit the matter to the respondent no.2 to take an appropriate decision on the representation dated 9th July, 2022 of the petitioner in accordance with law, as early as possible but preferably within a month from the date of uploading of this order.

9. However, till such time the representation is decided and copy of the order of disposal thereof furnished to the petitioner, no steps shall be taken for recovery of the said amount of Rs. 14,00,63,857/-.

10. All contentions are kept open.

11. However, if prior to this order being passed, the respondent no.2 has disposed of the representation of the petitioner and communicated the order to it, the respondent no.2 shall be free to bring such fact to the notice of this Court for recall of this order.

(ABHAY AHUJA, J.)

(CHIEF JUSTICE)

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signed by
NIKITA
YOGESH
GADGIL
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