

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15557 OF 2023

Shri Sadguru Trading Company

.. Petitioner

Versus

Assistant Provident Fund Commissioner & Anr.

.. Respondents

.....

- Ms. Samiksha Kanani a/w. Mr. Paresh Waghmare and Ms. Prasanna Pawar, Advocates for Petitioner.
- Mr. Ravi Rattesar, Advocate for Respondent.

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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 14, 2023

P.C.:

1. Heard Ms. Kanani, learned Advocate for Petitioner and Mr. Rattesar, learned Advocate for Respondent.

2. This Writ Petition is filed under Article 226 and 227 of the Constitution of India. This Writ Petition is filed to challenge the order dated 30.12.2022 and further orders dated 14.03.2023 and 30.11.2023 passed by the Respondents in proceedings under Section 14B of the Employees' Provident Fund and Miscellaneous Provision Act, 1952 (for short '**the said Act**'), *inter alia*, in respect of recovery of an amount approximately of Rs.49,66,000/-.

3. Though the orders state that aforesaid amount is due and payable towards liability under Section 14B and 7Q of the said Act, Ms. Kanani would submit that entire amount which is due and payable

under Section 7Q of the said Act has already been remitted with the Respondents.

4. One of the grievance of the Petitioner is that pursuant to the first impugned order dated 30.12.2022, the Petitioner has been corresponding with the Respondents regularly and within one month thereof i.e. on 19.01.2023, the statutory Appeal was also filed before the Appellate Authority i.e. CGIT-I, Mumbai being Appeal No.1/EPFA/2 of 2023. Application was also filed in June-2023 seeking an early disposal of the statutory Appeal by the Petitioner.

5. Ms. Kanani would submit that counter reply to the statutory Appeal has been filed after a delay of almost 11 months on 18.11.2023 by Respondents before the Appellate Authority. However immediately after filing counter reply coercive steps are now being taken against the Petitioner i.e. Petitioner's Director. She would submit that the conduct of the Respondents should be deprecated by the Court for the deliberate delay being caused for filing the counter reply and delaying the matter.

6. She has drawn my attention to Exhibit-G, page No.52 of the Writ Petition which is a show cause notice issued to the Director before issuing arrest warrant for non-compliance and non-payment of the alleged outstanding dues towards Section 14B and 7Q of the said Act alongwith costs. I have perused the show cause notice dated

30.11.2023.

7. Without delineating into the facts of the present case so as not to influence the decision of the Appellate Authority and considering the fact that statutory Appeal has been filed before the Appellate Authority, the said Appellate Authority i.e. CGIT – I, Mumbai is directed to decide and adjudicate the pending statutory Appeal within a period of eight weeks from today.

8. Further Ms. Kanani has drawn my attention to the fact that in the interregnum an order for attachment of the Bank account of the Petitioner has also been passed under Section 8F of the said Act which is at page No.44 of the Writ Petition. She would submit that such coercive steps are taken even without the Respondents having filed their reply in the statutory Appeal which was filed as far back as in January, 2023. The details of the Bank account held in Axis Bank and the amounts held therein are at page No.43 of the Writ Petition.

9. Considering the fact that the substantive Appeal is filed and pending and pleadings in the statutory Appeal are also completed by the parties, the order of attachment of the Petitioner's Bank account held in Axis Bank Limited, Nalasopara (West) Branch in respect of its Bank account No.912020025879490 and any fixed deposits held by the Petitioner in that Bank / Branch stands quashed and set aside. All prohibitory orders shall be passed by the learned Appellate Authority

only after hearing both the parties strictly in accordance with law.

10. With the above directions, Writ Petition is disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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