

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

WRIT PETITION NO.10321 OF 2024

Trio-Fab (India) Pvt. Ltd.
V/s.

....Petitioner

Regional Provident Fund
Commissioner-II

....Respondent

Ms Samiksha Kanani with Ms Prasanna Pawar for Petitioner.

Advocate Gunjan Chaubey (through VC) for Respondent -EPFO.

CORAM : SANDEEP V. MARNE, J.

DATED : 6 August 2024.

P.C.:

1) By this Petition, Petitioner challenges notice dated 10 July 2024 issued by the Regional Provident Fund Commissioner, Vashi, calling upon director of Petitioner-Company to show cause as to why he should not be committed to civil prison towards execution of recovery certificate dated 17 May 2024.

2) It appears that orders under provisions of Sections 7Q and 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (**the Act**) are passed against the Petitioner by Regional Provident Fund Commissioner on 6 March 2024. Since Petitioner failed to pay the amount reflected in the said orders, a recovery certificate was issued against Petitioner on 17 May 2024. On account of non-compliance with

the recovery certificate, show cause notice for warrant of arrest has been issued on 10 July 2024.

3) Ms Kanani, the learned counsel for the Petitioner would submit that Petitioner wants to file an appeal under provisions of Section 7-I of the Act against orders dated 6 March 2024. She would submit that since maximum permissible period for filing appeal under Section 7-I of 60+60=120 days is over, Petitioner is prevented from lodging the appeal and has accordingly filed the present Petition.

4) Mr. Chaube, the learned counsel appearing for the Respondent on the other hand relies upon judgment of the Division Bench of this Court in *M/s. Siddhi Engineering V/s. The Regional Provident Fund Commissioner-II*¹, in which, according to Mr. Chaube, a view has been taken that High Court cannot entertain a petition in absence of filing of appeal under Section 7-I of the Act. Perusal of the judgment in *M/s. Siddhi Engineering* would indicate that this Court has relied upon judgment of the Apex Court in *Assistant Commisisoner (CT) LTU, Kakinada and others v/s Glaxo Smith Kline Consumer Health Care Limited*².

5) In my view, the judgment of this Court in *M/s. Siddhi Engineering* as well as judgment of the Apex Court in *Assistant Commissioner (CT) LTU* (supra) would squarely apply to the present case. Machinery of this Court cannot be utilised for enabling filing of time barred appeals under Section 7-I of the Act. In that view of the matter, the present Petition cannot be entertained and is accordingly rejected.

¹. Writ Petition No.15694 of 2023 decided on 2 January 2024

². (2020) 19 SCC 681

[SANDEEP V. MARNE, J.]