

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3704 OF 2024

WITH

WRIT PETITION (L) NO.19716 OF 2024

WITH

WRIT PETITION (L) NO.19718 OF 2024

Kalpataru Properties (Thane) Private Limited ...Petitioner

Versus

Regional Provident Fund Commissioner (I),
Mumbai & Anr. ...Respondents

Mr. Vishal Kanade a/w. Mr. Saket Mone a/w. Mr. Suneet Tyagi, Ms. Krishna Raja and Ms. Archita Nair, Advocates, i/b. Vidhii Partners, for the Petitioner in WP/3704/2024.

Mr. Saket Mone a/w. Ms. Krishna Raja and Ms. Archita Nair, Advocates, i/b. Mr. Suneet Kr. Tyagi, for the Petitioner in WPL/19716/2024 and WPL/19718/2024.

Mr. Ravi Rattesar, Advocate, for the Respondent No.1.

CORAM: MADHAV J. JAMDAR, J.

DATED : 21st AUGUST 2024

P. C.:

1. By the present Writ Petitions filed under Article 226 of the Constitution of India, the Petitioners are challenging the legality and validity of the impugned orders passed under Section 7A of the *Employees Provident Fund and Miscellaneous Provisions Act*,

1952 (“the said Act”) and the orders passed under Section 7B of the said Act.

2. It is the contention of learned Counsel appearing for the Petitioners that the impugned orders are passed without considering the material on record.

3. Mr. Rattesar, learned Counsel appearing for the Respondent No.1 supported the impugned orders. However, thereafter he submitted that the Petitioners have not given particulars of the contractors before the concerned authority. It is the submission of Mr. Kanade, learned Counsel appearing for the Petitioners that the particulars of the contractors were given to the Respondents. In view of the said submission of Mr. Rattesar, learned Counsel appearing for the Respondents, Mr. Kanade, learned Counsel appearing for the Petitioners, on instructions, states that said particulars will be furnished afresh to the authorities.

4. In view of these submissions, learned Counsel appearing for the Petitioner and Respondents in all the Writ Petitions tenders Minutes of Order. Said Minutes of Order are taken on record and

marked 'X' for identification. The said Minutes of Order reads as under:

"MINUTES OF ORDER

Mr. Vishal Kanade a/w Mr. Saket Mone, Mr. Suneet Kr Tyagi, Ms. Krishna Raja and Ms. Anchita Nair i/b Vidhii Partners, for the Petitioner in WP No. 3704 of 2024.

Mr. Saket Mone a/w Ms. Krishna Raja and Ms. Anchita Nair i/b Suneet Kr Tyagi for the Petitioner in WP (L) No. 19716 of 2024 and WP (L) No. 19718 of 2024.

Mr. Ravi Rattesar for Respondent No. 1 in all the Petitions.

CORAM: MADHAV J. JAMDAR, J.

DATED: 21st AUGUST 2024

PC.:

1. Heard Mr. Vishal Kanade and Mr. Saket Mone, Learned Counsels for the Petitioners and Mr. Rattesar, Learned Counsel for the Respondent. The present Petitions inter alia challenge the following:

W.P. No.	Inquiry Order u/s 7A of the EPF Act, 1952	Review Order u/s 7B of the EPF Act, 1952
WP No. 3704 of 2024	Order dated 31.01.2020 bearing Reference No. MH/BAN/45923/Circle-IV/903	Review Order dated 08.05.2024 bearing Reference No.

		MHBAN0045923/ Compliance/64 in Review Application Diary No. 41 of 2020
WP (L) No. 19716 of 2024	Order dated 31.01.2020 bearing Reference No. MH/BAN/39153/Circle-IV/901	Review Order dated 08.05.2024 bearing Reference No. MHBAN0039153/ Compliance/65 in Review Application Diary No. 44 of 2020
WP (L) No. 19718 of 2024	Order dated 31.01.2020 bearing Reference No. MH/BAN/39151/Circle-IV/904	Review Order dated 08.05.2024 bearing Reference No. MHBAN0039151/ Compliance/66 in Review Application Diary No. 43 of 2020

2. It is the case of the Petitioners that the Impugned Review Orders dated 08.05.2024 passed u/s 7B of Employees' Provident Fund and Miscellaneous Provisions Act, 1952 ("the EPF Act") as well as the impugned Inquiry Orders dated 31.01.2020 passed u/s 7A of the EPF Act are passed without giving any cogent reasons and substantial grounds for rejecting the Review Applications, without considering the pleadings, documents and submissions of the Petitioners or looking into, giving any opportunity

of being heard to the Petitioners in the Inquiry and Review proceedings.

3. Mr. Rattesar, Counsel for Respondent No. 1, objects to the allowing of the Petition and further submits that the Petitioners to submit the particulars of the contractors before the concerned authority from their records.

4. In view of the above, the Review Order dated 08.05.2024 in Review Application Diary No. 41 of 2020, Review Order dated 08.05.2024 in Review Application Diary No. 44 of 2020, Review Order dated 08.05.2024 in Review Application Diary No. 43 of 2020 and Inquiry Order dated 31.01.2020 bearing Reference No. MH/BAN/45923/Circle-IV/903, Inquiry Order dated 31.01.2020 bearing Reference No. MH/BAN/39153/Circle-IV/901 and Order dated 31.01.2020 bearing Reference No. MH/BAN/39151/Circle-IV/904 are quashed and set aside and the matter is remanded for hearing before the concerned Authority, to hear the Petitioners and decide the Inquiry under Section 7A of the EPF Act, afresh in accordance with law by giving Petitioners reasonable opportunity of being heard.

5. Accordingly, the following order is passed:-

a) Review Order dated 08.05.2024 bearing Reference No. MHBAN0045923/ Compliance/64 dated 27.05.2024 in Review Application Diary No. 41 of 2020, Review Order dated 08.05.2024 bearing Reference No. MHBAN0039153/ Compliance/65 dated 27.05.2024 in Review Application Diary No. 44 of 2020 and Review Order dated 08.05.2024 bearing Reference No. MHBAN0039151/ Compliance/66 dated 27.05.2024 in Review

Application Diary No. 43 of 2020 under Section 7B of the EPF Act are quashed and set aside;

b) Inquiry Order dated 31.01.2020 bearing Reference No. MH/BAN/45923/Circle-IV/903 dated 18.02.2020, Inquiry Order dated 31.01.2020 bearing Reference No. MH/BAN/39153/Circle-IV/901 dated 14.02.2020 and Inquiry Order dated 31.01.2020 bearing Reference No. MH/BAN/39151/Circle-IV/904 dated 18.02.2020 under Section 7A of the EPF Act are quashed and set aside;

c) The concerned Authority is directed to hear the Petitioners and all concerned parties and decide the Inquiry under Section 7A of the EPF Act afresh in accordance with law after granting adequate opportunity;

d) The Petitioners are directed to submit the details and particulars of the contractors and documents, if any, from their available records to the concerned authority for adjudication of the inquiry proceedings under Section 7A of the EPF Act;

e) All rights and contentions of the parties are kept open;

f) The Petitions are disposed off; and

g) Liberty is granted to the parties to approach this Court, if required.”

5. Accordingly, the Writ Petitions are disposed of in terms of the Minutes of Order with no order as to costs.

[MADHAV J. JAMDAR, J.]

SONALI
MILIND
PATIL
Digitally
signed by
SONALI
MILIND
PATIL
Date:
2024.08.21
17:49:39
+0530

Sonali