

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4732 OF 2002

Sugarcane Producer Vividh Karyakari Sahakari
Society Ltd. .. Petitioner
Versus
Union of India and Ors. .. Respondents

WITH
INTERIM APPLICATION NO. 1755 OF 2024
IN
WRIT PETITION NO. 4732 OF 2002

Milind Dattatray Kaulgi and Ors. .. Applicants
IN THE MATTER BETWEEN:
Sugarcane Producer Vividh Karyakari Sahakari
Society Ltd. .. Petitioners
Versus
Union of India and Ors. .. Respondents

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- Mr. Kiran S. Bapat, Senior Advocate i/by Mr. Gaurav S. Gawande for Petitioner.
 - Ms. Manisha Jagtap, Advocate for Respondent No.1 – Union of India.
 - Mr. Tejas Mane, Advocate for Applicants in Interim Application No.1755 of 2024.

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CORAM : MILIND N. JADHAV, J.
DATE : JULY 25, 2025.

P.C.:

1. Heard Mr. Bapat, learned Senior Advocate for Petitioner; Ms. Jagtap, learend Advocate for Respondent No.1 – Union of India and Mr. Mane, learned Advocate for Applicants in Interim Application No.1755 of 2024.

2. Today, Ms. Jagtap appears on behalf of Union of India. She would submit that in so far as present dispute is concerned, the issue pertains to delayed remittances by Petitioner regarding Provident Fund remittances and in so far as that the issue is concerned it is only the Respondent No.2 who can throw light on the same. She would submit that she has no instructions to appear for Respondent No.2.

3. The matter is listed on Board repeatedly and despite having been served Respondent No.2 is not appearing before this Court. This Court has repeatedly observed this fact that pleaders on behalf of the Regional Provident Fund Commissioner's Office do not attend this Court in the first instance and it is only when whether specific orders are passed by this Court they attend.

4. Be that as it may, present Petition cannot be protracted any further. The original Petition is filed in the year 2002 and it has seen the light of the day after a humongous delay of 23 years. The facts in the present case are delineated in my order dated 24.07.2025 when this Petition was heard. The said order reads thus:-

"1. Heard Mr. Bapat, learned Senior Advocate for Petitioner.

2. A short issue involved in the present Petition is regarding levy of the damages by Respondent – EPFO on Petitioner for having deposited the amount of remittances of provident fund on 01.10.1998 in respect of the past remittances pertaining to their employees for the period 1988-89. Admittedly Respondents inspected the establishment of Petitioner in the year 1991 and once again in 1997 for effective compliances, filled in the questionnaire form twice and only after being satisfied thereafter informed the account number and code to the

Petitioner for the first time on 06.01.1998. Petitioner promptly deposited the remittances of provident fund @ 8.33% for the period from 1988 to 1989 which was the subject period along with interest @ 10% for the entire period from 1989 to 1997 and further interest @ 12% from 1997 to 1998 i.e. the date of communication of order. Petitioner's bonafides are writ large on the face of record and there is no dispute about the same since it is an admitted position.

3. Despite the above, Respondents issued show-cause-notice to Petitioner computing calculation of damages under Section 14B to the total tune of Rs. 11.44 Lakh resultantly leading to filing of the present Petition.

4. Prima facie from the above facts, it is clearly delineated that Petitioner had shown its bonafides promptly after having been intimated the account number and code number by Respondents after due diligence was completed for the first time only on 06.01.1998. It is also borne out from record that Petitioner had entered into correspondence with Respondents and copies of the letters seeking details for deposit are appended at page Nos. 20, 21 and 22 i.e Exh. "B", "C" & "D" to Petition. Despite the said correspondence, Respondents undertook an inspection of the establishment of Petitioner for the second time on 11.11.1997 and got the statutory questionnaire form filled in by Petitioner and it is only thereafter, the said questionnaire was processed by Respondents and Petitioners were intimated about the account number and code for effecting deposit. It is also borne out from record that despite the aforesaid delay primarily on the part of Respondents, Petitioner has shown its bonafides by depositing interest initially @ 10% and thereafter @ 12% on the deposited amount despite which the impugned order for damages has been passed. Respondents cannot be permitted to take advantage of their own delay and laches of having informed the Petitioner about deposit of remittances at their own convenience after a hiatus of almost 10 years. Such course of action militates and revolts against the action on the part of Statutory Authorities which cannot be accepted by Court. In that view of the matter, the impugned order in respect of damages is prima facie not sustainable on the basis of the aforesaid observations.

5. Today after hearing Mr. Bapat, I am constrained to pass this order since the Petition is of the year 2002 and requires consideration. Petition has been on the board of this Court for the past few weeks. Today since Ms. Jagtap, learned Advocate for Respondents is in personal difficulty as informed by the holding Advocate Mr. Tendulkar, Petition is kept tomorrow for hearing Ms. Jagtap. Ms. Jagtap is requested by this Court to ensure that she comes to the Court tomorrow and argues on behalf of Respondents to enable this Court to pass appropriate orders.

6. Stand over to 25th July, 2025 under the caption "Part-

Heard" on the Supplementary Board."

5. In view of the above observations, the impugned order of damages under Section 14B of the said Act, in my opinion, is not sustainable. The facts in the present case are such that Respondent No.2 cannot be allowed to take advantage of its own delay of several years to have informed the Petitioner for making the Provided Fund remittances pertaining to one singular year i.e. 1988 – 1989.

6. Record of the case *prima facie* shows that there is no dereliction on the part of Petitioner. In the first instance, Respondent No.2 has not informed the Petitioner the details of the account and the code number for the purpose of depositing the remittances after completion of the first round of inspection which is delineated in the aforesaid order. There was absolutely no reason for Respondent No.2 to have conducted a second round of inspection for the same issued several years later in the year 1997.

7. In that view of the matter, the dereliction and delay for non-deposit of the Provident Fund remittances during contentious period cannot be attributable to the Petitioner. Petitioner's bonafides having been proved on the face of record, the impugned order of damages under Section 14B is therefore not sustainable.

8. In view of my above observations and the findings recorded in the order dated 24.07.2025, impugned order dated 10.07.2002

passed by the Competent Authority under Section 14B of the said Act stands quashed and set aside. Resultantly Petition succeeds.

9. Rule is made absolute.

10. Writ Petition is disposed.

11. In view of the disposal of the Petition, pending Interim Application No.1755 of 2024 does not survive and the same is also accordingly disposed.

12. Needless to state that Interim Application is filed by some of the employees and their rights to seek their provident fund dues is not hampered by the present order.

13. In view of the above, Interim Application No.1755 of 2024 is disposed.

[MILIND N. JADHAV, J.]

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