

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9507 OF 2025

Lakhanpal Pvt Ltd

.. Petitioner

Versus

Regional Provident Fund Commissioner-I

.. Respondent

.....

- Ms. Samiksha Kanani a/w Ms. Gayatri Naik a/w Pavish Waghmare, Advocates for Petitioner
- Mr. Gunjan Chaubey a/w Mr. Vinay Kate, Mr. Chaitanya Shirasao & Ms. Chinanya Ningshen, Advocate for Respondent

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CORAM : MILIND N. JADHAV, J.

DATE : JULY 11, 2025

P. C.:

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

2. Present Writ Petition impugns the twin orders passed by Respondent under Sections 14B and 7Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short, "**the said Act**"). Both the orders are with respect to assessment in same years.

3. Petitioner initially prior to 2004 was having 400 employees and in 1988 had applied for exemption from the State Scheme in view of the Petitioner's beneficial scheme for his employees for which exemption was granted. Subsequently post 2004, the number of employees of Petitioner Company drastically reduced from 400 to mere 3 employees. In that view of the matter, Petitioner Company in

2013 applied for withdrawal of exemption. Without the said Application having been considered and statutory order having been passed thereon, Respondent in the year 2017 for the first time directly issued a demand notice / letter directing the Petitioner to deposit a substantial amount for seeking withdrawal from exemption. Petitioner followed up the letter of demand with the correspondence with the Respondent to show its *bonafides* for transferring funds to which there was no response by the Respondent. Eventually when Respondent informed the Petitioner substantial deposits were made intermittently by Petitioner. Ms. Kanani would submit that deposit of the amount of Rs. 80 Lakhs (approximately) has been made intermittently in different denominations with Respondent by the Petitioner to show its *bonafides*.

4. I need not delineate myself with the aforesaid issue since Petitioner has already shown its *bonafides* despite the Respondent not having responded to the correspondence of Petitioner regarding withdrawal from exemption. The impugned action is invoked in view of the alleged delay of 209 days by virtue of the impugned order passed under Section 7Q assessing demand of Rs. 17 Lakhs towards interest and order passed under Section 14B assessing demand of Rs. 36 Lakhs. Being aggrieved Petitioner has filed the Statutory Appeal before before CGIT-2, Mumbai and it is the grievance of Petitioner that

on three occasions before CGIT, the Respondent has not appeared thereby Petitioner requiring to knock the doors of this Court in view of the impending 8F execution proceedings now initiated by the Respondent.

5. I have heard both the learned Advocates at the Bar and perused the record of the case.

6. *Prima facie* the aforesaid facts are delineated in the material which are appended to the Petition and are undisputed. Admittedly Appeal bearing No. CGIT-2/EPFA/44 of 2025 appended at page Nos. 71-110 of the Petition is pending before the Appellate Authority. The question whether the delay is attributable to the omission of the Petitioner or the inaction on the part of the Respondent will have to be adjudicated in the Statutory Appeal by the Appellate Authority. Being disputed question of facts, this Court cannot advert and adjudicate the same at this stage in the Petition when the Statutory Appeal is pending.

7. In the facts and circumstances of the present case and in view of the *bonafides* of Petitioner having deposited the principal amount, the only question that needs to be decided is the delay in respect of challenge to the 14B order. Considering the fact that Petitioner has already shown its bonafides, I am not inclined to ask the Petitioner to

make any further deposit. Needless to state that the liability and assessment of Petitioner towards the delay and also with respect to the challenge maintained to both the impugned orders will be decided by the Appellate Authority strictly in accordance with law.

8. In view of the above, I direct CGIT-2, Mumbai to determine the Statutory pending Appeal appended at page Nos. 71-110 of the Petition as expeditiously as possible and in any event within a period of six months from today. Needless to state that all contentions of Petitioner and Respondent are expressly kept open. It is directed that any amounts which have been deposited shall be subject to the decision in the Statutory Appeal filed by Petitioner.

9. In the meanwhile no further coercive steps shall be taken against the Petitioner in furtherance of the impugned orders until the Statutory Appeal is decided and disposed of by the Appellate Authority i.e. CGIT as directed herein above.

10. Writ Petition is allowed and disposed in the above terms.

[MILIND N. JADHAV, J.]

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Digitally signed
by RAVINDRA
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AMBERKAR
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