

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9536 OF 2025

M/s. Tapasya Engineering Works Pvt Ltd .. Petitioner

Versus

Regional Provident Fund Commissioner-II .. Respondent

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- 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. Twin orders passed under Section 14B and 7Q of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (for short "**the said Act**") are the subject matter of challenge in the present Petition. The liability assessed under Section 14B is approximately Rs. 73.22 Lakhs whereas the liability under Section 7Q is approximately Rs. 35.73 Lakhs. Admittedly Respondent has attached bank account of Petitioner bearing number 188505000147 in ICICI Bank, Panchpakhadi Branch on 26.06.2025 itself and on 26.06.2025 recovered rather transferred the amount of Rs. 57.45 Lakhs (approx) without notice to Petitioner.

3. Ms. Kanani, learned Advocate for Petitioner makes a grievance that Respondent has created a further lien on the said bank account thus crippling the functioning and operations of Petitioner.

4. On the merits of the case, it is *prima facie* seen that assessment of the liability is during the COVID period. It is alleged by Respondent that that total number of 26 hearing opportunities were provided during the said period which *prima facie* has been dealt with by this Court in similar matters wherein contention of Respondent has been outrightly rejected. Merely providing opportunities and adjourning the matters without adjudication cannot be done by the Statutory Authorities especially when allegation of the Authority is with respect to improper assessment due to delay in remittance of the statutory contributions / payments required to be effected by the Establishment. That apart the Enforcement Officer's report is also required to be shared with the establishment to enable the establishment to meet the case of the Assessing Officer and thus in that view of the matter, an effective procedure / provision for Appeal is provided to the establishment.

5. In the present case Ms. Kanani would inform the Court that Statutory Appeal has been filed, copy of which is appended at 28-70 of the Petition before CGIT-1, Mumbai under Section 7-I of the said Act. She would submit that Petitioner is a renowned industry established as

far back as in 1986 and a well known establishment in the pharmaceutical industry rather a leading manufacturer of imports substitutes of pharmaceutical machinery for the past 40 years. She would submit that Petitioner is having all records and therefore it is inevitable that the decision making process *prima facie* appears to be failed and deficient in due diligence. She would submit that impugned order demonstratively effects the high handed arbitrariness and more specifically it does not consider the correspondence effected by Petitioner with respect to the adverse impact of post GST slowdown, the COVID 19 pandemic and the business restructuring undertaken through a business transfer agreement by Petitioner Company with M/s. Prochem Turnkey Solutions Pvt Ltd and effect of the same. She would submit that these issues would have to be determined for the purpose of considering the request made by Petitioner seeking waiver of the damages as also interest which are the subject matter of impugned orders in the present case.

6. Mr. Chaubey, learned Advocate appearing for Respondent in his usual fairness acknowledges the fact that amount of Rs. 57 Lakhs has been recovered from the bank account of Petitioner which has been attached pursuant to the impugned order.

7. I have heard both the learned Advocates at the bar and with their able assistance perused the record of the case.

8. Considering the aforesaid delineated facts and the fact that coercive action already taken against Petitioners has resulted in recovery of a substantial amount of Rs. 57.45 Lakhs as against the twin impugned orders passed under Section 14B and 7Q of the said Act, I am of the opinion that the Petitioner's Statutory Appeal filed before the Appellate Authority is required to be determined expeditiously. In the meanwhile, looking at the aforesaid facts, I am also not inclined to call upon the Petitioner to deposit any further amount to show its bonafides. The amount of Rs. 57.45 Lakhs which has been recovered by the Respondent against the impugned liability under Section 14B and 7Q shall be held by the Respondent subject to the final decision in the Statutory Appeal filed under Section 7-I by Petitioner.

9. It is directed that no coercive steps shall be taken against the Petitioner for recovery of any further amount until the Statutory Appeal is decided in accordance with law.

10. At the request of Ms. Kanani, bank account of Petitioner bearing number 188505000147 in ICICI Bank, Panchpakhadi Branch is directed to be immediately released from the attachment. The Branch Manager of the said Bank is directed to act on a server copy of this order without waiting for any communication from the Respondent and ensure that the said account is immediately and forthwith

released from attachment and made available to Petitioner for its day to day operation and use.

11. In view of the above observations and findings, no further coercive steps shall be taken against Petitioner in furtherance of the twin impugned orders passed under Section 14B and 7Q which are subject matter of the Petition and the Statutory Appeal filed before the CGIT-1, Mumbai.

12. CGIT-1 Mumbai is directed by Court to determine the said Statutory Appeal as expeditiously as possible and in any event within a period of six months from today. All contentions of parties are expressly kept open and the said Appeal shall be determined without being influenced by any of the observations made in this order as directed.

13. With the above directions, Writ Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

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by RAVINDRA
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