
(1995) 06 BOM CK 0043
In the Bombay High Court
Case No : Writ Petition No. 134 of 1988

A.V.C. Investment and Trading P. Ltd. and Others	APPELLANT
Vs	
Regional Provident Fund Commissioner and Another	RESPONDENT

Date of Decision : 29-06-1995

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 7A

Citation : (1996) 73 FLR 1385 : (1996) 2 LLJ 473

Hon'ble Judges : T.K. Chandrashekhara Das, J; D.R. Dhanuka, J

Bench : Division Bench

Advocate : M.S. Usgaonkar and S. Usgaonkar, for the Appellant; R.M.S. Khandeparkar, for the Respondent

Judgement

D.R. Dhanuka, J.—This petition involves consideration, inter alia, of the following questions:

"(1) Whether the A.V.C. Investment and Trading Pvt. Ltd. is liable to be treated as a part of the establishment of J.K.F. Enterprises for the purpose of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952?

(2) Whether respondent No. 1 was justified in granting Sub-Code No. Goa/10121-D to the A.V.C. Investment and Trading Pvt. Ltd. and calling upon petitioner No. 1 to make contribution to the provident fund for the period commencing from April 1, 1984 ?"

2. It is not disputed that respondent No. 1 has not passed any speaking order as required by law. It was incumbent on respondent No. 1 to hold the requisite inquiry in the matter and pass a speaking order. It is the case of petitioner No. 1 that petitioner No. 1 is totally independent of J.K.F. Enterprises and the petitioner, A.V.C. Investment and Trading Pvt. Ltd. and J.K.F. Enterprises are independent entities. Respondent No. 1 ought to have held a proper inquiry and investigated all the factual questions after disclosing material, if any, in its possession on the basis of which it is being contended by the Department that

the petitioner, A.V.C. Investment and Trading Pvt. Ltd. is part of the establishment of J.K.F. Enterprises. The impugned order thus suffers from non-compliance with the principles of natural justice.

3. In this situation, we have reached the conclusion that the order, exhibit "B", colly to the petition, being order dated April 24, 1987, should be quashed. We accordingly, do so. Respondent No. 1 shall be at liberty to hold the necessary inquiry as contemplated u/s 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Respondent No. 1 shall grant reasonable opportunity of being heard to petitioner No. 1 as well as to J.K.F. Enterprises. Both parties shall be at liberty to lead the necessary evidence during the course of the inquiry. Respondent No. 1 shall thereafter pass a speaking order dealing with the contentions, factual or legal, which may be urged by the parties during the course of the said inquiry. The proceedings are thus remanded to respondent No. 1 in terms aforesaid.

4. The petition is finally disposed of in terms aforesaid. No order as to costs.

Rule is made absolute in terms aforesaid.