

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2932 of 1991

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

TEX MANUFACTURERS (GUJARAT) P LTD

Versus

REGIONAL PROVIDENT FUND COMMR

Appearance:

1. Special Civil Application No. 2932 of 1991
MR PM THAKKAR for Petitioner No. 1-2
MR PJ MEHTA for Respondent No. 1
MR ASIM J PANDYA for Respondent No. 1
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CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 30/06/2004

ORAL JUDGEMENT

By filing this petition, the petitioner has
challenged the order passed by the Regional Provident

Fund Commissioner, Gujarat State, asking the petitioner to deposit certain amount in view of the inquiry held under Section 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. As per the order, the petitioner was asked to deposit Rs.49,825.05 ps., which is at page 69. The aforesaid order is impugned in this petition.

2) The case of the petitioner is that the petitioner establishment is not covered under the provisions of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 and at the time of passing the order under Section 7-A, the petitioner was not heard.

3) Mr.P.J.Mehta, learned advocate appearing for the Regional Provident Fund Commissioner states that so far as the order under Section 7-A is concerned, the same is appealable under Section 7-I of the Act before the appellate authority. He submitted that the order under Section 7-A was passed after hearing the petitioner and it is not an ex-parte order. He further submitted that the amount in question is already recovered by the department from one M/s. V.S.Engineers, who have taken the premises on lease from the present petitioner, and, therefore, nothing further is required to be recovered from the petitioner. At the request of learned advocate Mr.Mehta, letter dated 11-3-2004, which was received by him from the Assistant Provident Fund Commissioner is kept on record.

4) Ms.Vinita Vinayak for Thakkar Associates for the petitioners state that even though they have tried to contact their client, they have not received any instruction from their client regarding whether any amount is recovered by the department or not. Since the learned advocate for the petitioner is not in a position to say whether the petitioner is still aggrieved by the order, which was passed long back, in my view, this petition is not required to be entertained, especially, when the department has recovered the amount and the factory is now run by the other organization, i.e., M/s. V.S.Engineers. It is clarified that if the petitioner has any grievance against the order passed under Section 7-A, it will be open for the petitioner to challenge the same in accordance with law and the petitioner can also file appropriate application for condonation of delay while filing appeal, stating about the pendency of the present petition before this Court.

5) Subject to what is stated above, this petition is rejected. Rule is discharged. Interim relief, if any,

shall stand vacated. No costs. It is clarified that this Court has not expressed its opinion on the merits of the case.

(P.B.Majmudar,J.)

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