

*Sayali*

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5867 OF 2018

SAYALI
DEEPAK
UPASANI

Digitally signed by
SAYALI DEEPAK
UPASANI
Date: 2026.04.30
18:25:02 +0530

The Central Board of Trustees
Employees Provident Fund Organisation
Through Asst. PF. Co. (Legal) and Others ... Petitioners

V/s.

Kalpesh Enterprises ... Respondents

Mr. Sandeep Mishra with Ms. Madhura Mulay, for
Petitioners.

Ms. Sunita Dube i/b P. Bhagat, for Respondent.

CORAM : AMIT BORKAR, J.

DATED : APRIL 30, 2026

P.C.:

1. Rule. Rule made returnable forthwith.
2. The petitioners challenge the order dated 02nd November, 2016. This order was passed by the Presiding Officer of the Provident Fund Appellate Tribunal at New Delhi in Appeal ATA No.1146 (9) of 2015. The petitioners say that this order is wrong on law and facts. They want the Court to interfere.
3. The order in dispute was passed under Section 14B of the Employees Provident Fund and Miscellaneous Provisions Act. This provision deals with the power of the authorities to impose



damages when an employer delays payment of provident fund contributions. The purpose of damages is to discourage delay and protect the interest of employees. When an authority uses Section 14B, it has to consider the facts of each case and then decide the amount of damages.

4. A reading of the impugned order shows that the Tribunal relied on a judgment of the Delhi High Court in the case of *System and Stamping and Another vs. Employees Provident Fund Appellate Tribunal and Others* reported in (2008) 2 LLJ 939. In that case, the Delhi High Court had examined how Section 14B should be applied. The Tribunal treated that judgment as a guiding source for deciding damages. The reasoning of the Tribunal mainly flows from this judgment.

5. It is pointed out that the Supreme Court has considered this issue in Civil Appeal No.6592/2014, *Central Board of Trustees vs. Roma Henny Security Services Pvt. Ltd.* The Supreme Court noted that the Delhi High Court had not considered clause 32A of the Employees Provident Fund Scheme, 1952. Because of this, the Supreme Court set aside the judgment and sent the matter back to the Delhi High Court to reconsider. The petitioners argue that once the Supreme Court has set aside the judgment relied upon by the Tribunal, the basis of the impugned order has disappeared. They say the Tribunal must now decide the issue of damages under Section 14B without relying on the Delhi High Court judgment.



6. It is not in dispute that the judgment in System and Stamping has been set aside by the Supreme Court. Once the Supreme Court has taken that step, the reasoning of that judgment cannot support the Tribunal's order. Therefore, the Tribunal must reconsider the matter. The Tribunal will have to decide damages under Section 14B by applying the correct legal position and by examining the facts on record. In view of these facts, the petition deserves to be allowed.

7. The order dated 02nd November, 2016 passed by the Employees Provident Fund Appellate Tribunal in Appeal No. 1146 (9) of 20 is set aside.

8. The matter is sent back to the CJIT, Mumbai, to reconsider the question of damages under Section 14B of the Act. The authority will give fresh consideration as per law and evidence.

9. Rule is made absolute in above terms.

10. The writ petition stands disposed of.

(AMIT BORKAR, J.)