HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT

Writ Appeal No.771 of 2015

Date: 02.09.2015

Between:
The Commissioner of Labour,
Andhra Pradesh,
Hyderabad.

Appellant

And

The K.C.P. Projects Ltd.,
Hyderabad and others.

… Respondents

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT

Writ Appeal No.771 of 2015

PC: (Per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

This writ appeal is directed against the order passed by learned Single Judge in a group of writ petitions, whereby, the writ petitions were allowed in terms of the judgment dated 28.11.2013 in Writ Petition No. 9111 of 2010. The order of the learned Single Judge reads thus:

> "This batch of writ petitions is filed questioning the levy of 1% cess on the bills payable to the petitioners, under the Building and Other Construction Workers' Welfare Cess Act, 1996, in respect of the works connected with Rashtriya Ispat Nigam Limited.
>
> At the hearing, Mr. V. Ravinder Rao, learned counsel appearing for the above said company, has fairly stated that the issue raised in these writ petitions is squarely covered by the judgment dated 28.11.2013 of this Court in W.P.No.9111 of 2010 and batch, whereby this Court has allowed the writ petitions by holding that such levy is without jurisdiction and beyond the competence of the respondents.
>
> Accordingly, these writ petitions are allowed in terms of the said judgment. The amount of 1% cess, if any withheld by the above said company from out of the bills of the petitioners, shall be refunded to the latter.
>
> As a sequel, all the miscellaneous applications shall stand disposed of as infructuous."

The judgment dated 28.11.2013 of this Court in Writ Petition No. 9111 of 2010, was under challenge in a batch of appeals, bearing Writ Appeal No. 1012 of 2013 and Batch. This Court allowed the appeals and set aside the judgment dated 28.11.2013, passed in Writ Petition No. 9111 of 2010. While doing so, the Division Bench, considered the question “whether the Factories Act, 1948 (63 of 1948) would apply to the buildings, such as blast furnace within the premises of factories, constructed/erected by contractors? and if yes whether they are liable to pay 1% cess, being ‘employers’ under the provisions of Act No.28? In other words whether structures, such as blast furnace within the factory premises, are exempted from the provisions of Act No.27, that being the works incidental to and/or connected with the works of factory?”

In our opinion, the challenge raised in the instant writ appeal is squarely covered by the judgment of this Court dated 6.8.2015 in Writ Appeal No. 1012 of 2013 and Batch, and is liable to be allowed in terms thereof, whereby, the question framed came to be answered against the contractors.

Order accordingly.

Consequently, pending miscellaneous applications shall also stand closed.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

2nd September, 2015

Pnb