

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.29407 OF 2011

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ORDER:

This petition is filed for a writ of *Mandamus* declaring the action of the respondents in forcibly collecting the ESI dues of Rs.9,50,319/- under prohibitory order dated 02.06.2011 of the 2nd respondent through State Bank of Hyderabad vide Account No.52190010149, dated 30.06.2011 without notice to the petitioner's Corporation, as illegal and arbitrary and violative of G.O.Rt.No.2185, dated 22.11.2004 and consequently to direct the respondents to forthwith refund the amount collected from the account of the petitioner Corporation of Rs.9,50,319/- in terms of exemption of application of ESI Act vide G.O.Rt.No.2185, dated 22.11.2004.

Heard learned counsel for the petitioner and Sri B.G.Ravinder Reddy, learned Standing Counsel for 2nd respondent Corporation.

Now the learned counsel for the petitioner Corporation submits that since the employees of the petitioner were exempted from the provisions of ESI Act, 1948 by virtue of G.O.Rt.No.2185, dated 22.11.2004, the 2nd respondent Corporation has to refund the amounts collected in pursuance of the prohibitory order dated 02.06.2011.

In the instant case, admittedly, the dues that are payable by the petitioner are prior to the exemption order dated 22.11.2004 which was passed in favour of the petitioner and that the exemption order does not state that the exemption is retrospective. More so, the letter dated 30.03.2012 produced by the petitioner Corporation shows that the application filed by the petitioner for exempting the employees from the coverage of ESI with retrospective from 11.01.1996 has been rejected.

In view of the same and since the exemption order dated 22.11.2004 does not cover the dues payable by the petitioner, I do not see any merit in the writ petition.

Accordingly the writ petition is dismissed. However, it is open for the petitioner to avail alternative remedy against the order dated 02.06.2011 as per law. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

10.06.2015

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