

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

I.A.No.1 of 2018

IN/AND

WRIT PETITION No.586 of 2017

COMMON ORDER:

I.A.No.1 of 2018 is allowed setting aside the dismissal order dated 20.04.2018 in W.P.No.586 of 2017.

Heard both sides and perused the prayer in the writ petition with the supporting material and the earlier order of this Court dated 20.04.2018 which is not a mere default for dismissal.

The contentions from the writ petition averments vis-à-vis oral submissions of the learned counsel for the petitioner are that the very proceedings are unsustainable and the arbitrary and are liable to be set aside in saying he is an Ayurvedic Doctor by evocation and in the year 1997 at request of one T.Rajith Kumar, MD, he acted as a Director of Sri Satya Herbo Care Private Limited, registered on 05.12.1997 and the entity undertakes to manufacture and market herbal medicines by engaging only 5 workers by then as a small unit and it was unfortunately closed within lapse of one year and left with some stock and goods and Section 1(2)(a) Act applies if engaged 20 or more persons and it is not such a case, leave apart he is nothing to do with the firm and he is only a practicing Doctor in Ayurvedic at Bangalore. Even the workers who were engaged of 5 or so left in the year 1998 itself and the respondents have no right to compel to pay Rs.1,84,873/- under the guise of criminal

prosecution or committing to civil prison leave apart at no point of time authorities inspected the entity during 1997-98 and there is no electrical consumption charges paid in the name of firm as it was closed that to when no door number and it is in use after 1998 for tailoring purpose on rent and the question of passing any order imposing penalty or damages for the alleged non-contribution of PF once does not arise and the proceedings are illegal including to invoke Section 8E of the Act, leave apart contrary to the principles of natural justice and there is no other alternative remedy but for filing of the writ petition.

Learned counsel for the respondents submits that there is an efficacious alternative remedy statutorily available under Section 7(i) of the EPF Act. Once the statutory provision clearly says as efficacious alternative remedy without invoking that remedy there is nothing to entertain the writ petition.

Hence, this Writ Petition is disposed of to invoke that remedy to admit if any such appeal filed under Section 7(i) of the Act within fifteen (15) days from the date of receipt of this order to entertain without reference to the limitation.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 20.07.2018
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