

HONOURABLE SRI JUSTICE T. AMARNATH GOUD

WRIT PETITION NO. 9 3 7 5 OF 2015

O R D E R :

This writ petition is filed by the petitioner to declare the action of respondents in issuing prohibitory orders vide No.AP/80096/SRO/KKP/Z-IV/8F/2015/1880, dated 25/2/2015 directing the third respondent to remit an amount of Rs.1,16,304/- forth with from the account of the petitioner and thereafter deducting the said amount from the account of the petitioner on 04-3-2015, as illegal, arbitrary and contrary to the provisions of Employees Provident Fund and Miscellaneous Provisions Act, 1952 and in violation of Article 14, 19 [1] [g], 21 of the Constitution of India and consequently to direct the respondents 1 and 2 to refund the amount of Rs.1,16,304/- to the petitioner and to pass such other suitable orders as this Court may deem fit and proper in the circumstances of the case.

2. Heard the learned counsel for the petitioner and Sri Y.Ravindra, learned standing counsel for the respondents 1 and 2.

3. The case of the petitioner is that the petitioner entered into contract with M/s. Sridevi Enterprises, SRC Nayak Nagar, IDA Jeedimetla, Ranga Reddy district, Hyderabad, on 23-8-2012 for supply of labour to its unit at Jeedimetla to be effective from 01-9-2012. Since the contractor was not performing satisfactorily, the services were terminated from 07-5-2013 and settled the account and there is no amount payable by the petitioner in

favour of the contractor. The second respondent initiated steps under section 7 and 8 of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 wherein the action initiated by the second respondent against the contractor ended in passing of the order dated 10-7-2014 against M/s. Sridevi Enterprises and EPF Organization. The petitioner is not a party to the said proceedings before the second respondent under section 7 of the Act. The second respondent came to a conclusion and directed the petitioner to remit a sum of Rs.1,16,304/- payable by the contractor to the account of the second respondent towards the dues payable under the Act. The continuous correspondence between the office of the second respondent as well as the petitioner, dated 12-9-2013, 7-11-2013 and 18-8-2014. On 19-2-2015 finally the notice was issued under section 8F [3][x] of the Act. The petitioner has submitted a detailed explanation to the second respondent and served it on 24-2-2015 indicating that there are no amounts due by the petitioner payable to the contractor, M/s. Sridevi Enterprises and thus, the petitioner is not liable to pay any amount in this regard under the EPF Account. Without dealing the same, Prohibitory Order dated 25/2/2015 has been passed by the second respondent, directing the third respondent-ICICI bank to transfer a sum of Rs.1,16,304/- from the account of the petitioner to the account of the second respondent. In pursuance of the said order dated 25-2-2015 and 04-3-2015, the third respondent-bank as transfer the amounts despite on 27-2-

2015 was specific letter addressed by the petitioner to the third respondent, the bank has not considered the same not to transfer the amount.

4. In the counter-affidavit, none of the contents made by the petitioner and the correspondence made has been referred to and no reasons have been given in the Prohibitory Orders dated 25-2-2015 in dealing with the representation made by the petitioner on 24-12-2015, since the order is ex-facie unilateral and the one which is violative of principles of natural justice and the same is liable to be set aside and accordingly the same is set aside. The respondents shall take steps to make good the amount to the petitioner which were debited from his account by the third respondent-bank within a period of four weeks from the date of receipt of a copy of the order. It is needless to observe that in view of the above observations made, the question of going into the argument of availing alternative remedy of filing the appeal does not arise and the writ petition is allowed, setting aside the orders impugned in this writ petition.

5. In the result, the writ petition is allowed. There shall be no order as to costs.

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

JUSTICE T. AMARNATHJ GOUD.

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[RESULT : ALLOWED]

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