

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.19836 OF 2019

O R D E R

Aggrieved by the action of the respondent – Employment Provident Fund Organization represented by its Assistant Provident Fund Commissioner, Regional Office – II, Barkatpura, Hyderabad, in issuing proceedings No. TS/HYD/26226/C-518/P.D./2019-20/639 dated 31.07.2019, in levying the penal damages of Rs.31,69,363/- under Section 14-B of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (for short 'the Act') on the petitioner – firm, and in issuing proceedings No.TS/HYD/26226/C-518/P.D./2019-20/638 dated 31.07.2019 charging interest of Rs.16,61,656/- under Section 7Q of the said Act, the present writ petition is filed.

Sri T.Venkat Reddy, learned Standing Counsel for the respondent submits that against the impugned proceedings, petitioner has alternative remedy of appeal under Section 7 (I) of the Act, and hence the present writ petition may not be entertained.

Learned counsel for the petitioner, while not disputing the availability of alternative remedy, submits that by the time of taking of the management of the company by the petitioner, the company's financial position is in a bad state of affairs, and there are huge dues under various statutory provisions, and the company is also not in a position to pay salaries to its employees. Learned counsel further submits that though representation dated 26.07.2019 was filed bringing the said circumstances to the notice of the respondent, the same has not been considered in proper perspective while passing the impugned proceedings. Hence, this amounts to violation of principles of natural justice. He further submits that if this court is not inclined to entertain the writ petition, and intends to relegate the petitioner to avail alternative remedy, impugned proceedings may be suspended in the meanwhile.

Perusal of the impugned proceedings goes to show that the representation of the petitioner was taken into consideration while levying penal damages and charging interest, and if the petitioner is aggrieved by the same, he has statutory remedy of appeal under Section 7-I of the Act, where the grounds sought to be raised by the petitioner, would be considered in accordance with law. In view of availability of alternative remedy, this court is not inclined to entertain the writ petition.

Hence, granting liberty to the petitioner to avail alternative remedy of appeal under the above said provision within a period of four weeks from the date of receipt of a copy of this order, writ petition is disposed off. Till filing of such appeal, impugned proceedings shall remain suspended.

It is made clear that in case the petitioner fails to file the appeal within the above period allowed by this court, the respondent is at liberty to take further action in accordance with law in terms of the impugned proceedings.

Interlocutory applications pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY,J

DATE:01—10—2019

Note: C.C. by tomorrow.
B/O
(AVS)