

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THURSDAY THE TWENTY NINTH DAY OF SEPTEMBER
TWO THOUSAND AND ELEVEN

:PRESENT:

THE HON'BLE SRI JUSTICE: **NOOTY RAMAMOHANA RAO**

W.P.M.P NO: 28744 of 2011

IN

W.P.NO: 23478 of 2011

Between:

1. M/s. Hyderabad Industries Limited, Sanatnagar, Hyderabad – 18, rep. by its General Manager, Mr. L.N.Murthy.
2. M/s. Hartex Rubber Limited, Plot No. 106, Sri Venkateswara Coop. Industrial Estate, P.O. Bollaram, Medak District.
3. M/s. Kirby Building Systems India Limited, IDA, Pasamailaram, Medak District, rep. by the Asst. Vice President (P&A-HRD)
4. Employers Federation of Southern India (Andhra Pradesh Branch), 3rd Floor, Topaz Building, Somajiguda, Hyderabad, rep. by its Hon' Secretary, Sri S.L.N.Murthy.

..... Petitioners

(Petitioners in WP.No : 23478 of 2011
on the file of High Court)

AND

1. Employees' Provident Fund Organisation, (Ministry of Labour & Employment, Govt. of India), Head Office, Bhavrshya Yidhr Bhawan, 14, Bhikaiji Cama Place, New Delhi – 110 066, rep. by Addl. Central P.F. Commissioner (Compliance)
- 2 The Employees Provident Fund Organization, Ministry of Labour, Government of India, rep. by Regional Provident Fund Commissioner, 3-4-763, Barkatpura, Hyderabad.

.....Respondents

(Respondents in -do-)

COUNSEL FOR PETITIONERS: Sri G.Vidyasagar, C.Niranjan Rao

COUNSEL FOR RESPONDENTS: Sri R.N.Reddy – S.C. for PF

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed in W.P., the High Court may be pleased to suspend the operation of the Circular No. Coord/4 (6) 2003/Clarification /Vol.II/7394, dated. 23-5-2011 issued by the 1st Respondent, pending W.P.No. 23478/2011 on the file of the High Court.

The Court while directing issue of notice to the Respondents herein to show cause why this application should not be complied with, made the following order. (The receipt of this order will be deemed to be the receipt of notice in the case).

ORDER:

“ In terms of the definition contained of the expression “basic wages” in Section 2(b) of the Employees’ Provident Fund and Miscellaneous Provisions Act, 1952, it is explicitly clear that the cash value of any food concession, any dearness allowance, which is in the form of cash payments by whatever name called paid to an employee on account of a rise in the cost of living, house-rent allowance, overtime allowance, bonus commission or any other similar allowance payable to an employee in respect of his employment or of work done in such employment and any presents made by the employer shall not be included in the matter of computation. But however, Section 6 of the same Act, which has been amended by Act 46 of 1960, allows the basic wages as well as dearness allowance and retaining allowance, if any to be taken into account for the purpose of determining the quantum of contribution to be made. The fact that the Minimum Wages Act, 1948 has defined the “minimum wage” in a broader perspective, cannot provide for any authorization for reviewing or reopening the cases of assessments made and demand the revised contributions based upon the minimum wages as defined under the Minimum Wages Act, 1948.

A prima facie case is made out. Hence, let there be stay of all further action pursuant to the circular memo dated 23.05.2011 issued by the 1st respondent.

Notice.”

ASSISTANT REGISTRAR

// TRUE COPY //

