

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**TUESDAY ,THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

WRIT APPEAL NO: 1439 OF 2024

Writ Appeal under clause 15 of the Letters Patent Appeal Preferred Against Order Dated 12/12/2024 in WP.No. 34950 of 2024. on the file of the High Court.

Between:

M/s. VBC Ferro Alloys Ltd., A company registered under the Companies Act, Having its Registered Office at 6-2-913/914, 3rd Floor, Progressive Towers, Khairatabad, Hyderabad, Telangana, Factory at Rudraram Village, Patancheru Mandal, Medak District, Rep. by its Authorised Signatory P. Venkateswar Rao, S/o. Late Parusuramaiah aged about 62 years, Occ. Director

...APPELLANT/PETITIONER

AND

1. Union of India, Ministry of Labour and Employment, Employees Provident Fund Organization, Baiiishva Nidhi Bhavan, New Delhi, rep by its Additional Central Provident Fund Commissioner.
2. Regional Provident Fund Commissioner and Authority, U/S 7A of EPF and MP Act. The Employees Provident Organization, Regional Office, Patancheru, 12-1, Susheeram Complex, Patancheru, Sangareddy District-502319, rep by its Recovery Officer.

...RESPONDENTS/RESPONDENTS

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings pursuant to the Notice to show cause as to why a warrant of arrest should not be issued vide Office Letter No. TS/RO/PTC/17192/Recy-CP/25/ 2024/589, dated 22/11/2024 issued by the 2nd respondent, pending disposal of the Writ appeal

Counsel for the Appellant: SRI. RAJA SHEKAR RAO SALVAJI

Counsel for the Respondent No.1: SRI GADI PRAVEEN KUMAR

Dy. SOLICITOR GEN. OF INDIA

Counsel for the Respondent No.2: SRI G. VENKATESHWARLU, SC FOR EPFO

The Court made the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT APPEAL No.1439 of 2024

JUDGMENT: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. Raja Shekar Rao Salvaji, learned counsel for the appellant.

Mr. G.Venkateshvarlu, learned Standing Counsel for the Employees Provident Fund Organisation, for the respondents.

2. Heard on the question of admission.

3. This intra court appeal is directed against the order dated 12.12.2024 passed by the learned Single Judge by which the writ petition preferred by the appellant, namely W.P.No.34950 of 2024, has been dismissed.

4. Facts giving rise to filing of this appeal briefly stated are that the appellant, namely M/s. VBC Ferro Alloys Limited, which is a registered company under the provisions of the Companies Act, is represented by its

whole time director. The company had not paid the provident fund dues to its workers. Thereupon, an industrial dispute was raised and the Regional Provident Fund Commissioner passed an order dated 08.05.2015 directing payment of provident fund to the employees for the period from April, 2012 to December, 2013. The Regional Provident Fund Commissioner, by taking into account the settlement between the parties passed an order of assessment for an amount of Rs.1,21,84,232/-.

5. According to the appellant, a sum of Rs.1,13,94,988/- was paid on account of dues payable to the employees on account of provident fund. However, a sum of Rs.7,67,783/- was not paid. The Regional Provident Fund Commissioner thereupon issued an order dated 06.11.2015 under Section 14B and under Section 7Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, for payment of an amount of Rs.93,48,695/-.

6. Since the amount mentioned in the order dated 06.11.2015 was not paid, thereupon a notice dated

16.02.2016 was issued for conducting auction of the property belonging to the appellant for recovery of a sum of Rs.1,16,50,519/- towards provident fund dues and date of auction was fixed on 21.03.2016. The appellant thereupon filed a writ petition, namely W.P.No.9443 of 2016, which is pending before the learned Single Judge. In the aforesaid writ petition an interim order was granted by which the Recovery Officer was directed to decide the representation submitted by the appellant dated 22.02.2016 within a period of two weeks.

7. It is the case of the appellant that the representation submitted by him was rejected on 31.03.2016 without affording an opportunity of hearing to him. The appellant learnt about the decision of the representation on 06.07.2023. The Recovery Officer issued another letter dated 03.07.2023 asking the appellant to ascertain whether any stay has been granted in favour of the appellant. Thereafter, the Regional Provident Fund Commissioner issued a notice dated 22.11.2024 to the appellant, *inter alia*, on the ground that the appellant has failed to pay the sum due on account of provident fund to

the employees of the appellant. The appellant was, therefore, asked to appear before the Regional Provident Fund Commissioner on 16.12.2024 and was required to show cause as to why he should not be committed to civil prison.

8. The appellant instead of submitted any reply or explanation, challenged the aforesaid show cause notice in a writ petition. The learned Single Judge, by an order dated 12.12.2024 has dismissed the writ petition. Hence, this appeal.

9. Learned counsel for the appellant submits that the appellant has realised his mistake and ought to have responded to the show cause notice which was issued to him. It is submitted that in case the appellant is granted two weeks time to respond to the show cause notice dated 22.11.2024, the appellant shall appear before the Regional Provident Fund Commissioner and shall file the reply.

10. In view of the aforesaid submission and in the facts and circumstances of the case, the order dated 12.12.2024

passed by the learned Single Judge in W.P.No.34950 of 2024 is modified.

11. The appellant is granted the liberty to file a reply to the notice dated 22.11.2024 on or before 06.01.2025. It is further directed that the appellant shall appear before the Regional Provident Fund Commissioner on 06.01.2025 along with the reply. The Regional Provident Fund Commissioner, after considering the reply submitted by the appellant, is granted the liberty to proceed further in the matter in accordance with law.

12. The appeal is accordingly disposed of.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

**SD/- I. NAGA LAKSHMI
DEPUTY REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

1. The Additional Central Provident Fund Commissioner, Union of India, Ministry of Labour and Employment, Employees Provident Fund Organization, Baitishva Nidhi Bhavan, New Delhi,
2. The Recovery Officer, Regional Provident Fund Commissioner and Authority, U/S 7A of EPF and MP Act. The Employees Provident Organization, Regional Office, Patancheru, 12-1, Susheeram Complex, Patancheru, Sangareddy District-502319
3. The Authorised Signatory, P. Venkateswar Rao, M/s. VBC Ferro Alloys Ltd., A company registered under the Companies Act, Having its Registered Office at 6-2-913/914, 3rd Floor, Progressive Towers, Khairatabad, Hyderabad, Telangana, Factory at Rudraram Village, Patancheru Mandal, Medak District, S/o. Late Parusuramaiah aged about 62 years, Occ. Director
4. One CC to SRI. RAJA SHEKAR RAO SALVAJI, Advocate [OPUC]
5. One CC to SRI. GADI PRAVEEN KUMAR, Dy. SOLICITOR GEN. OF INDIA [OPUC]
6. One CC to SRI. G. VENKATESHWARLU, SC FOR EPFO [OPUC]
7. Two CD Copies

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HIGH COURT

DATED:31/12/2024

JUDGMENT

WA.No.1439 of 2024



**DISPOSING OF THE WRIT APPEAL
WITHOUT COSTS**

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4/1/25