

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.210 of 2013
Decided on: 25.09.2026

Kapil Mohan and Associates Hydro Power Project Pvt. Ltd.

...Petitioner

Versus

State of Himachal Pradesh and others

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioner: Mr. Sunil Mohan Goel, Senior Advocate with Mr. Aryan Thakur, Advocate.

For the respondents: Mr. Hemant Kumar Verma, Deputy Advocate General, for respondents No.1 to 3-State.

None for respondent No.4.

Mr. Virbahadur Verma, CGSC for respondent No.5-Union of India.

Jiya Lal Bhardwaj, Judge (Oral)

The petitioner by way of present petition has prayed for the following substantive reliefs:-

“(a) That this Hon'ble Court may also be pleased to issue a Writ of Mandamus restraining the Respondents from demanding Cess under the provisions of Building & Other Construction Workers (RE&CS) Act 1996 & H P Building & other Construction Workers Rules 2008 and the Building & Other Construction Workers Cess Act 1996 and Rules made thereunder from the petitioners with regard to Building & other

¹ Whether reporters of Local Papers may be allowed to see the judgment?

Construction pertaining to 9 MW Jirah Hydro Project of the petitioner Company in District Kullu H P as the said project is covered under the Factories Act, 1948.

- (b) *That this Hon'ble Court may also be pleased to issue a writ of Certiorari and quash notice dated 16.5.2011 Annexure P4 and demand notice dated 17.4.2012 and direct the Respondents to refund the amount deposited by petitioner with the Respondents vide Annexure P 6 letter dated 30.4.2012."*

2. The respondents while filing reply to the petition has though opposed the prayer made by the petitioner in the writ petition, but the learned counsel representing the petitioner has placed reliance upon the judgments passed by the coordinate Bench of this Court in CWP No.8493 of 2010, titled, **Greenko Budhil Hydro Power Private Limited vs. State of H.P. and others**, along with connected matters and in CWP No.218 of 2013, titled, **Kapil Mohan and Associates Hydro Power Private Ltd. vs. State of Himachal Pradesh & Ors.** and stated that the issue is covered by the aforesaid judgments.

3. Learned counsel for the petitioner has also placed reliance upon the judgments passed by the Hon'ble Supreme Court in **Uttar Pradesh Power Transmission Corporation Limited and another vs. CG Power and Industrial Solutions Limited and another** (2021) 6 SCC 15 and **Lanco Anpara Power Limited vs. State of Uttar Pradesh and**

others (2016) 10 SCC 329.

4. Learned counsel for the respondents has not disputed the fact that the issue raised in the present petition is covered by the decisions referred to above and thus the petition deserves to be allowed.

5. Consequently, in view of the aforesaid pronouncements made in **Greenko Budhil** case (supra) and **Kapil Mohan** case (supra) the present petition is allowed and the impugned notice dated 16.05.2011 (Annexure P-4) is quashed and set aside with a direction to Assessing Authority to re-assess the leviable cess against the petitioner strictly in terms of the judgments passed by Hon'ble Supreme Court in **Uttar Pradesh Power Transmission Corporation Limited** case (supra) and **Lanco Anpara Power Limited** case (supra) expeditiously, preferably within a period of eight weeks. Needless to say, the authority concerned while doing the needful in terms of instant order shall afford an opportunity of hearing to the petitioner and pass detailed speaking order thereupon. Pending applications, if any, also stand disposed of.

25th September, 2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**