

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-14396-2017 (O&M)

Date of decision:- 06.07.2017

M/s Indian Plastic Footwear and Clothing Pvt. Ltd.

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present:- Mr. Abhilaksh Grover, Advocate,
for the petitioner.

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S.J. VAZIFDAR, C.J. (ORAL)

The 3rd respondent was allotted a plot on 29.01.2007. The allotment letter is not on record. We are informed that there was a change in the constitution of the 3rd respondent firm. The particulars of the change are, however, not clear. It is not clear as to whether respondent No. 3 converted itself into a company registered under the Companies Act, 1956 or not. In the absence thereof, we must presume that the petitioner is a separate entity. According to the petitioner, the charges for the same ought to have been as per EMP-2005. However, an application for changing the project was rejected by an order dated 30.12.2010 on the ground that respondent No. 3 had failed to implement the project as per the terms of allotment.

2. The petitioner alleges that it paid the amount(s) for change in constitution in the year 2012. The application pursuant to which the payment was made is not on record. If the petitioner had not challenged the order dated 30.12.2010,

it is possible that the amount for change was paid in the

year 2012 pursuant to a separate application. In that event, it is possible that EMP-2011 and not EMP-2005 would apply. Further, it is not clear as to the terms on which the alleged payment in the year 2012 was made. For instance, it is not clear whether the payment was made under protest or not.

3. The petitioner seeks to recover this amount on the ground that EMP-2005 applied to it and not the EMP of 2011. A claim for refund is made now after about five years. It is not possible to entertain a claim for the refund in a petition under Article 226 of the Constitution of India. There are several issues of law and of fact which would require consideration.

4. The petition is disposed of with liberty to the petitioner to adopt appropriate proceedings.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

06.07.2017
Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No