

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPT No.159 of 2014**

Chhattisgarh State Power Generation Company Limited Through:
Managing Director, Vidhyut Bhawan, Danganiya Raipur, Chhattisgarh
State

---Petitioner**Versus**

1. State of Chhattisgarh Through Secretary, Department of Labour,
Government of Chhattisgarh, Mantralaya, Mahanadi Bhawan, Naya
Raipur, Chhattisgarh State.
2. Assessing Officer Office of Assessing Officer (Building & Other
Construction Workers' Welfare Cess Act) & Assistant Labour
Commissioner, Korba, Chhattisgarh State

---Respondents

For Petitioner	: Mr.K.R.Nair, Advocate
For Respondents	: Mr.Prafull Bharat, Addl. Advocate General

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****07/05/2018**

1. Learned counsel appearing for the parties would submit that the issue involved in the present writ petition is squarely covered by a decision of this Court in Writ Petition (T) No.7503 of 2010 (Arasmeta Captive Power Company Pvt. Limited v. State of Chhattisgarh and others), decided on 18.11.2016, in which this Court has held as under:-

"11. In case of those Petitioners who are not registered, I feel that interest of justice would be served if they are granted two months time to apply for registration. The Registering Authority is directed to ensure that within a period of six weeks from the date of application for registration, the registration shall be completed. Within one month of the registration of the Petitioners, they must file their return and the return shall not be treated to be delayed in case it is filed within the time

granted by the Court. Thereafter, assessment shall be made as per the provisions of law.

12. In case of those petitioners who are already registered under the BOCW Act, they are directed to file their return within two months from today and if the return are filed within two months, then the Assessing Officer shall deal with their return in accordance with law. Needless to say that the Assessee/employer shall be given an opportunity of hearing. Since it is not disputed that the demand notices issued and recoveries made till now have been made without making assessment in terms of Section 5 of the BOCW Cess Act, prima facie, these orders are not in accordance with law. This Court has issued directions to start de novo proceedings and therefore no recovery shall be made on the basis of the old notices. In those cases, where recovery of cess has already been made, after assessment order is passed, in case the amount assessed is less than the amount recoverable, then balance amount shall be paid back to the concerned Petitioner(s) alongwith interest at the rate of 12% per month from the date of deposit till payment is made."

2. In view of above, the present writ petition is disposed of in terms of paras 11 and 12 of the order passed in **Writ Petition (T) No.7503 of 2010**. No cost(s).

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-