NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 661 of 2018

- M/s Raipur Power And Steel Limited Plot No. 75-76, Industrial Growth, Center Borai, Rasmada, District - Durg Chhattisgarh. Through Brahmajit Pattanaik, S/o Late Shri M.C. Pattanaik, Aged About 53 Years, General Manager (Law), M/s Raipur Power And Steel Limited, R/o Wallfort City Ring Road, Raipur, Distric Raipur Chhattisgarh

---- Appellant

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Labour, Indrawati Bhawan, Naya Raipur, District - Raipur Chhattisgarh
2. Appellate Authority Building And Other Construction Workers Welfare Cess Act, 1996, P-3, C-244-45, Housing Board Colony, Sector 27, New Raipur, District Raipur Chhattisgarh
3. Assessing Officer Building And Other Construction Workers Welfare Cess Act, 1996, Office Of Deputy Director, Industrial Health And Safety 101, Housing Board Apartment, Raipur Naka, Durg Division, District Durg Chhattisgarh
4. Collector Durg, District - Durg Chhattisgarh

---- Respondents

For Appellant	:	Shri BD Guru, Advocate
For the State	:	Shri PN Bharat, Additional AG

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu

Judgment on Board

Per Ajay Kumar Tripathi, Chief Justice

03.10.2018

1. Heard learned counsel for the parties.

2. The appeal has been preferred against an order dated 06.07.2018 since the writ application was dismissed and the learned Single Judge refused to set aside the order dated 31.07.2017 passed by the appellate

authority under the Building and Other Construction Workers' Welfare Cess Rules, 1998 (for short, 'Rules, 1998'). The appellant is before this Court in the above circumstances.

3. Taking into consideration the statutory requirements of Section 14 of the above Rules, learned Single Judge has taken note of two aspects as to why no interference with the dismissal of the appeal by the appellate authority under the said enactment was not warranted. One reason has been that the certificate of the Collector Cess was not annexed with the memo of appeal and two, that 1% of the fee amount so assessed which is required to be paid as fee had not been paid.

4. Since Section 14 of the Rules, 1998 mandates certain compliants before appeal could be entertained, failure would have consequences. Since the omission has been on the part of the appellant, therefore, the decision of learned Single Judge keeping in view the requirements of the provision under Rule 14 cannot be said to be erroneous.

5. Submission of the counsel on behalf of the appellant that the assessment has been wrongly made, components not required to be included has been included in the assessment etc are not the issues before us and the writ forum cannot be utilised to circumvent the requirement laid down under Rule 14 of the Rules, 1998.

6. In view of above, the writ appeal is dismissed. However, it is still left open to the appellant that in case he is willing to comply with the mandate and the requirement even at this stage, the appellate authority may

consider condoning the delay and decide the matter on its own merits, if such steps are taken within a period of four weeks from today.

7. The appeal is otherwise dismissed with liberty as above.

Sd/-	Sd/-
(Ajay Kumar Tripathi)	**(Parth Prateem Sahu)**
Chief Justice	**Judge**

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