

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.10870 OF 2008

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking to declare the action of the respondents in deducting 1% labour cess from the bills payable to the petitioners and the consequential notices, dated 05.05.2008 and 19.04.2008, as arbitrary and illegal

2. The facts are not in dispute. The petitioners are civil contractors executing certain works of the respondents. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and the Building and other Construction Workers' Welfare Cess Act, 1996, are enacted by the Central Government with an objective to collect 1% construction cost to be credited to the State to undertake welfare measures in an un-organized Sector. It is the case of the petitioners that deduction of 1% cess does not form part of the estimation and in those circumstances, 1% Labour cess cannot be deducted from the bills payable to the petitioners.

4. Learned counsel for the petitioners would submit that a batch of writ petitions came to be disposed of by this Court holding that 1% cess cannot be deducted unless the same forms part of the estimation. He would also place on record the order dated 22.10.2009, passed in W.P.No.11269 of 2009 and batch, and he

prays for disposal of the present writ petition in terms of the said order.

5. Learned Government Pleader appearing for the respondents did not dispute the statement made by learned counsel for the petitioners.

6. Perused the order, dated 22.10.2009. There is no dispute that the issue involved in this writ petition is squarely covered by the order, dated 22.10.2009, in W.P.No.11269 of 2009. Operative portion of the order reads thus:

“(a) the respondents shall include 1% cess in the estimates for the works which they propose to undertaken, if the work continues for a or beyond twelve months and involves engagement of 10 workers or more; and

(b) the respondents shall not deduct any amount towards cess, unless the corresponding amount is included in the estimates.”

8. Following the said order, this Writ Petition is also disposed of in terms thereof. Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

JUNE 21, 2018

Note:

Registry to annex a copy of order

Dt:22.10.2009, in W.P.No.11269 of 2009
to this order.

(B/o)
YVL

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Date:21.06.2018