

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-2826-2018

Date of Decision: 10.5.2018

Srishti Constructions, Jalandhar City

....Petitioner.

Versus

State of Punjab and another

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL,
ACTING CHIEF JUSTICE.**

HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

PRESENT: Mr. Jagmohan Bansal, Advocate for the petitioner.

Mr. Pankaj Gupta, Additional Advocate General, Punjab.

AJAY KUMAR MITTAL, ACJ.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing respondent No.2 to reimburse the wrongly deducted labour cess along with interest.

2. Government of Punjab issued a circular dated 11.11.2008 (Annexure P-1) for implementation of the Acts and Rules as mentioned in para 3 of the writ petition. The petitioner was awarded contract to construct 40 HIG Super Deluxe Flats in Guru Ravidass Nagar, Jalandhar vide work order dated 14.11.2016 (Annexure P-2). Vide another contract dated 25.1.2018 (Annexure P-3), the petitioner was awarded contract to construct

contractual amount included different taxes but did not include labour welfare cess. In the year 2008, respondent No.2 prepared the estimate (Annexure P-4) without including welfare cess even though other statutory dues were duly considered. However, respondent No.2 deducted labour cess from the running bills of the petitioner who vide letter dated 3.7.2009 (Annexure P-5) requested respondent No.2 to refund the labour cess. The petitioner vide letter dated 10.2.2011 (Annexure P-6) followed by the letters dated 16.1.2012, 17.12.2013, 18.7.2014, 10.8.2015 and 7.3.2016 (Annexure P-7 Colly) requested respondent No.2 to reimburse the labour cess along with interest. Respondent No.2 passed a Resolution dated 2.5.2016 (Annexure P-8) wherein it was decided that the approval for reimbursement of the labour cess to the petitioner be obtained from the Government. The said Resolution was put up before respondent No.1 who vide communication dated 20.5.2016 (Annexure P-9) decided that the action be taken as per Rules and Regulations of Government provided that no loss was caused to the Trust. However, no action was taken thereon. Accordingly, the petitioner sent the letters dated 9.8.2016, 14.9.2016, 16.11.2016, 9.1.2017, 3.11.2017 and 16.11.2009 (Annexures P-10 to P-12, respectively) to the Superintending Engineer, Jalandhar Improvement Trust, Jalandhar for payment of labour cess along with interest, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent letters dated 9.8.2016, 14.9.2016, 16.11.2016, 9.1.2017, 3.11.2017 and 16.11.2009 (Annexures P-10 to P-12, respectively) to the Superintending Engineer, Jalandhar Improvement Trust, Jalandhar, but no action has so far been taken thereon.

4. After hearing learned counsel for the parties, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to take a decision on the letters (Annexures P-10 to P-12, respectively), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of one month from the date of receipt of the certified copy of the order.

**(AJAY KUMAR MITTAL)
ACTING CHIEF JUSTICE**

May 10, 2018
gbs

**(TEJINDER SINGH DHINDSA)
JUDGE**

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No