

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 10215/2024

M/s D.c Agarwala And Co. Private Limited
-----Petitioner
Versus
The State Of Rajasthan
-----Respondent

Connected With

D.B. Civil Writ Petition No. 10219/2024

M/s Unique Builders
-----Petitioner
Versus
The State Of Rajasthan
-----Respondent

D.B. Civil Writ Petition No. 10220/2024

M/s Unique Builders
-----Petitioner
Versus
The State Of Rajasthan
-----Respondent

D.B. Civil Writ Petition No. 10223/2024

M/s Unique Builders
-----Petitioner
Versus
The State Of Rajasthan
-----Respondent

For Petitioner(s)	:	Mr. SS Hora
For Respondent(s)	:	Ms. Mahi Yadav, AAG through VC

HON'BLE THE CHIEF JUSTICE MR. MANINDRA MOHAN SHRIVASTAVA
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

Order

18/09/2024

These petitions have been filed challenging the order of dismissal of the appeal on the ground of failure to comply with the provisions with regard to pre-deposit, as contained in Rule 14 of

the Building and Other Construction Workers' Welfare Cess Rules, 1998 (for short 'the Rules of 1998).

At the outset, learned counsel for the petitioner would submit that the provision contained in sub-clause (b) of sub-rule (2) of Rule 14 of the Rules of 1998 is beyond the enabling provision contained in sub-section (11) of Section 2 of the Building and Other Construction Workers' Welfare Cess Act, 1996 (for short 'the Act of 1996).

Learned counsel for the petitioner would further submit that constitutional validity of Rule 14 (2) (b) which require a certificate from the cess Collector to the effect that the amount of cess or penalty or both, as the case may be, relating to such appeal has been deposited i.e. pre-condition of entertaining appeal was challenged before the Delhi High Court and the Delhi High Court vide its judgment and order dated 31.10.2022 in M.T.N.L. Vs. Deputy Labour Commissioner (South), declared the aforesaid provision of requiring 100% pre-deposit as beyond enabling provisions.

It is further submitted that the SLP against the said judgment has also been dismissed vide order dated 08.04.2024 in SLP (Civil) Diary No.6033/2024. Therefore, appeals could not have been dismissed on the ground of failure of pre-deposit provision which no longer exists in the eyes of law. He would submit that the petitioners are entitled to hearing of their appeal on its own merit without requiring any mandatory pre-deposit.

Ms. Mahi Yadav, learned AAG appearing for the State is granted three weeks time to file reply.

List this case after three weeks.



[CW-10215/2024]

In the meanwhile, on petitioners' depositing 15% amount within three weeks from today, recovery of balance amount shall remain stayed till the next date of hearing.

A copy of this order be placed in each connected file.

(ASHUTOSH KUMAR),J

(MANINDRA MOHAN SHRIVASTAVA),CJ

N.Gandhi-Diksha/315, 317, 318 & 319