HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 12376/2026
CNR: RJHC020611372026 | URN: CW / 27323U / 2026

M/s Saini Multispecialty Hospital, Jaipur Road, Udaipurwati, District Jhunjhunu Through Its Proprietor Dr. Anil Saini.

----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Department Of Labour, Government Of Rajasthan, Government Secretariat, Jaipur.
2. Commissioner Of Labour, Department Of Labour, Rajasthan, Jaipur.
3. Cess Assessing Authority Cum Labour Welfare Officer, Jhunjhunu
4. District Collector (Recovery), Jhunjhunu
5. Sub Divisional Officer, Udaipurwati, District Jhunjhunu Rajasthan.
6. Tehsildar, Udaipurwati, District Jhunjhunu.
7. Nagar Palka Mandal, Udaipurwati Jhunjhunu Through Its Executive Officer.

----Respondents

For Petitioner(s)	:	Mr. Ripu Daman Singh Naruka, Adv.
For Respondent(s)	:	Ms. Mahi Yadav, AAG with Ms. Chelsi Agarwal, AAAG

HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

<u>Order</u>(Oral)

<u>05/08/2026</u>

Per: Arun Monga, J.

1. The petitioner, by way of the present writ petition, seeks quashing of the order dated 06.08.2025 and the notice dated 16.03.2026, whereby the Labour Cess has been determined and a consequential

demand has been raised against it. The petitioner further prays that the respondents be directed to re-determine the labour Cess after affording an opportunity of hearing and, upon adjustment of the amount already deposited along with the applicable interest, grant reasonable time to deposit any shortfall, if found due, without levying any interest or penalty.

2. Briefly stated, the case of the petitioner is that it constructed a hospital. In connection therewith, it deposited a sum of Rs.45,000/- towards labour Cess with the Nagar Palika Mandal, Udaipurwati, District Jhunjhunu, vide Receipt No. 17 dated 06.09.2019. Thereafter, the Cess Assessment Officer-cum-Labour Welfare Officer, Jhunjhunu, passed an assessment order dated 06.08.2025. By the said order, the Labour Cess payable by the petitioner was determined and interest was levied thereon. Recovery proceedings were consequently initiated. These culminated in a notice dated 16.03.2026 issued under the Rajasthan Land Revenue Act. The notice sought recovery of a total amount of Rs.3,42,680/-, comprising Cess, interest and penalty. It is further the case of the petitioner that, after the assessment order, it deposited the balance Cess amount of Rs.67,724/- vide challan dated 06.03.2026.

3. Learned counsel for the petitioner submits that, while determining the Cess liability vide order dated 06.08.2025, no credit was given for the sum of Rs.45,000/- already deposited on 06.09.2019 with the Nagar Palika Mandal, Udaipurwati. This fact was subsequently certified by the said authority vide certificates dated 17.04.2026 and 22.04.2026. The said amount was thereafter remitted to the Labour Welfare Officer, Jhunjhunu, through Demand Draft dated 07.05.2026. It is, therefore, contended that the impugned assessment order dated 06.08.2025 and the consequential recovery notice dated 16.03.2026

levy interest and penalty without granting adjustment of the amount already deposited. To that extent, they are stated to be arbitrary and contrary to the provisions of the Building and Other Construction Workers' Welfare Cess Act, 1996 and the Rules of 1998, and are thus liable to be set aside.

4. Per contra, learned counsel for the respondents, appearing on advance service, submits that the deposit of Cess, to be valid in law, must be made with the competent authority prescribed under the Act of 1996 and the Rules of 1998, namely, the office of the Labour Commissioner. Admittedly, the petitioner did not deposit the requisite Cess with the said authority. The liability, therefore, remained undischarged in the eyes of law. In these circumstances, the impugned notice dated 16.03.2026 (Annexure-7) was rightly issued for recovery of the principal amount along with interest, aggregating Rs.3,42,680/-.

5. We have heard learned counsel for the parties and perused the record. The *bona fides* of the petitioner are, to an extent, borne out from the record. The petitioner had, of its own accord, deposited Rs.45,000/- as far back as 06.09.2019. It further deposited the amount assessed as payable, i.e., Rs.2,25,966/- (comprising Rs.1,12,724/- towards Cess and Rs.1,17,232/- towards interest), within the period of 30 days, as per Annexure-2. The difficulty of the petitioner, however, stems from one fact. The initial deposit was made with the local body, i.e., the Nagar Palika Mandal, Udaipurwati, and not with the competent authority under the Act, namely, the office of the Labour Commissioner.

6. What thus emerges for consideration is a short question. Can the petitioner, having deposited the amount with an authority not prescribed under law, claim the benefit of such deposit? Can it, on that

basis, assail the levy of interest and penalty and restrain the competent authority from proceeding with recovery?

7. Answers are not far to seek. The Act of 1996 and the Rules of 1998 constitute a self-contained scheme. Under the said scheme, the Cess is to be assessed by, and deposited with, the authority prescribed thereunder. The Nagar Palika Mandal is a stranger to that scheme. A deposit made with it, howsoever *bona fide*, does not amount to discharge of the statutory liability. The amount never reached the coffers of the Labour Welfare Board within the time prescribed. The mistake of depositing the amount before a wrong authority, therefore, confers no immunity upon the petitioner. Nor can it furnish a ground for this Court to restrain the competent authority from proceeding in accordance with law. At best, it entitles the petitioner to seek a refund of the amount from the authority with whom it was erroneously deposited. In fact, the petitioner has already substantially pursued that course, as the amount stands remitted onward by Demand Draft dated 07.05.2026.

8. There is another equally weighty reason for our disinclination to interfere. The grievance of the petitioner is that credit for the amount of Rs.45,000/- was not given while computing interest and penalty. This is essentially a challenge to the correctness of the assessment order dated 06.08.2025. Against such an order, the statute itself provides an efficacious remedy of appeal under Section 11 of the Building and Other Construction Workers' Welfare Cess Act, 1996. On a Court query, it transpires that the said remedy has not been exhausted. The questions raised are matters squarely within the province of the appellate authority. Whether the deposit with the Nagar Palika can be adjusted, and from what date interest and penalty are leviable, are questions

requiring appreciation of evidence. Such evidence includes the certificates dated 17.04.2026 and 22.04.2026 and the subsequent remittance. This material was not before the Assessing Officer when the impugned order came to be passed.

9. It is well settled that where the statute provides a complete machinery for redressal of grievances, the extraordinary jurisdiction under Article 226 of the Constitution of India ought not ordinarily to be invoked in supersession thereof. Interference is warranted only in cases of jurisdictional error or violation of the principles of natural justice. Neither is made out in the present case.

10. Accordingly, we are not inclined to exercise our extraordinary writ jurisdiction. The instant writ petition is disposed of with liberty to the petitioner to seek refund of any amount wrongly deposited with, and still lying with, the Nagar Palika Mandal, Udaipurwati, in accordance with law. The petitioner shall equally be at liberty to avail the statutory remedy of appeal under Section 11 of the Act of 1996 against the assessment order dated 06.08.2025. All contentions, including the claim for adjustment of the amounts already deposited and remitted, shall remain open before the appellate authority. The same shall be considered on their own merits, uninfluenced by any observation made hereinabove. The proceedings initiated by the office of the Labour Commissioner pursuant to the impugned notice shall take their own course, in accordance with law.

11. All pending application(s) also stand disposed of.

(ASHUTOSH KUMAR),J **(ARUN MONGA),J**

6/PARSHANT/RASHMI