

(2014) 02 KL CK 0165
In the High Court Of Kerala
Case No : W.P. (C) No. 37842 of 2009

Malabar Hotel Management and Catering, Promotion Trust	APPELLANT
Vs	
District Labour Officer, Wayanad and Others	RESPONDENT

Date of Decision : 26-02-2014

Acts Referred:

Building and Other Construction Workers Welfare Cess Act, 1996 — Section 6

Citation : (2014) 141 FLR 1075 : (2014) 2 KHC 52 : (2014) 2 KLT 11 : (2014) LabIC 1804 : (2014) LLR 581

Hon'ble Judges : Babu Mathew P. Joseph, J

Bench : Single Bench

Advocate : Grashious Kuriakose, Senior Advocate and Celine Joseph, Advocate for the Appellant; P.M. Saneer, Senior Government Pleader and M.V.S. Namboothiry, Senior Central Government Counsel, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Babu Mathew P. Joseph, J.—This writ petition has been filed for exempting the petitioner from the payment of cess payable under the Building and Other Construction Workers' Welfare Cess Act, 1996 (for short, the Act). Heard the learned Senior Counsel appearing for the petitioner, learned Senior Government Pleader appearing for the respondents 1 to 3 and the learned Senior Standing Counsel appearing for the respondents 4 and 5.

2. Learned Senior Counsel for the petitioner submits that the petitioner has applied for exemption from the payment of cess payable under the Act. The Central Government called for a report from the State Government for that purpose. Accordingly, Ext. P6 report was sent to the Central Government. The report so sent is not in favour of the petitioner. Therefore, no exemption has been granted. Learned Senior Counsel fairly admitted that the petitioner was not levied such a cess payable under any corresponding law in force in the State of Kerala. Section 6 of the Act prescribes the power to grant exemption which reads as follows:

6. Power to exempt.-- Notwithstanding anything contained in this Act, the Central Government may, by notification in the official Gazette, exempt any employer or class of employers in a State from the payment of cess payable under this Act where such cess is already levied and payable under any corresponding law in force in that State.

Therefore, unless a similar cess was already levied and payable under any corresponding law in force in the State of Kerala as prescribed u/s 6, the petitioner cannot claim exemption. Since the petitioner has not suffered any such cess levied and payable under any such corresponding law, he is not entitled to exemption. This being the legal position, this writ petition is liable to be dismissed. Hence, it is dismissed.