RAJASTHAN HIGH COURT
सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

D.B. Civil Writ Petition No. 21493/2026
CNR: RJHC010898492026 | URN: CW / 36646U / 2026

Rajasthan High Court
सत्यमेव जयते
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M/s Mahir Mills, M/s Mahir Millsplot No. 67, 72, 82-83, Khasra No. 389/206, 390/206, 391/206, 393/206 Moti Nagar, Kher Road, Balotra, Barmer, Rajasthan-344022.through Its Proprietor Megha Gupta W/o Shri Umesh Gupta, Aged About 34 Years, resident Of Agarwal Colony, Ward No. 4, Balotra (Rural), Barmer

----Petitioner

Versus

1. State Of Rajasthan, State Of Rajasthan Through Principal Secretary, Department Of Local Self Body, Secretariat, Jaipur.
2. Director Local Self Body Department, Director Local Self Body Department, G-3, Rajmahal Residential Area, C-Scheme, Near Civil Line Fatak, Jaipur-16.
3. Rajasthan State Pollution Control Board, Rajasthan State Pollution Control Board, 4, Institutional Area, Jhalanadoongari, Jaipur-302004.
4. Commissioner, Commissioner, Nagar Palika, Balotra, District Balotra.
5. Balotra Water Pollution Control Research Foundation Trust, Balotra Water Pollution Control Research Foundation Trust, riico Industrial Area, Khed Road, Balotra, Rajasthan 344022
6. Aaryan Associates, Aaryan Associates, Mittal Bhawan, Kher Road, Balotra Industrial Area, Balotra - 344022
7. Mr Infra, Mr Infra, khasra No. 1057/14, Industrial Area, 4Th Phase, Balotra-344022

----Respondents

Connected With

D.B. Civil Writ Petition No. 1110/2021
CNR: RJHC010034012021 | URN: CW / 1705U / 2021

Abhinandan Processors, Nakoda Road, Jaisol, Tehsil Pachpadra, District Barmer (A Registered Partnership Firm), Through Partner Abhinandan Kothari Son Of Shri Pushpraj

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Kothari, Aged 39 Years, By Caste Jain, Resident Of Jaisol, Tehsil Pachpadra, District Barmer.

----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Department Of Local Self Body, Secretariat, Jaipur.
2. Director, Local Self Body Department, G-3, Rajmahal Residential Area, C-Scheme, Near Civil Line Fatak, Jaipur-16.
3. Rajasthan State Pollution Control Board, 4, Institutional Area, Jhalana Doongari, Jaipur 302004.
4. Commissioner, Nagar Palika, Balotra, District Barmer.
5. Jasol Water Pollution Control And Treatment Trust, Laghu Udhyog Mandal, Nakoda Road, Jasol, Tehsil Balotra, District Barmer.

----Respondents

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For Petitioner(s) : Mr. Ramit Mehta
Mr. Tarun Dudia
Mr Rahul Kotwal

For Respondent(s) : Mr. S.S. Rathore, AAG
Mr. Devki Nandan Vyas
Mr. Vinay Kothari with
Mr. Ayush Goyal and
Mr. Bhavyadeep Singh
Mr. Rajesh Parihar

HON'BLE THE CHIEF JUSTICE MR. SANJAY K. AGRAWAL
HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU

Order

25/11/2026

1. Learned counsel for the parties submits that the present Civil Writ Petitions are covered by judgment dated 26.10.2026 rendered by Division Bench of this Court in batch of Civil Writ Petitions led by ***M/s Murliwala Industries Vs.***

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***State of Rajasthan & Ors. (D.B. Civil Writ Petition No.25742/2026)*.**

2. In the matter of M/s Murliwala Industries (supra), this Court observed as under :-

> *"1. Petitioners are before us aggrieved against what they alleged to be illegal levy of CESS with respect to the industrial unit which is being operated by them. Premise thereof is that the pollutants which are being discharged are allegedly beyond the permissible limit. Thus, causing the Municipal Council, Balotra to deal with the same as the same is passing through the territorial limits of the Council.*
>
> *2. For the sake of brevity, the detailed facts of the aforesaid bunch of cases are not being reproduced herein. However, a brief background of the matter, as necessary for adjudication of the present case, is being set out hereinbelow, by taking D.B. Civil Writ Petition No. 25742/2026, as the lead matter.*
>
> *2.1 The petitioner, a proprietorship firm, is engaged in textile manufacturing, including dyeing, finishing and printing of cloth. The grievance of the petitioner is that the Nagar Palika Balotra (Pradushan Janya Vyavsay Kar) Rules, 2003, providing for levy of CESS within the municipal limits of Balotra, are not applicable to its industrial unit, particularly when the petitioner has its own operational Effluent Treatment Plant (ETP), functions as a Zero Liquid Discharge (ZLD) unit and holds the requisite consents issued by the Rajasthan State Pollution Control Board. The petitioner is neither a member of the trusts operating the Common Effluent Treatment Plants (CETPs) at Balotra and Jasol nor avails any services thereof. Nevertheless, the respondents, through their agencies, have been recovering CESS on the raw material transported to the petitioner's industrial unit by stopping the vehicles at the check-post and obstructing their movement in the absence of payment of such CESS.*

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2.2 Despite representations seeking discontinuation of the aforesaid recovery and refund of the amount already collected, the respondents have continued with the same. The petitioner has also relied upon the Performance Audit Report of the Rajasthan State Pollution Control Board and the certificate issued by a Chartered Engineer, which, according to the petitioner, establish the satisfactory functioning of its pollution control equipment and ZLD-based ETP. Being aggrieved by the continued recovery of CESS under the Rules of 2003, the petitioner has preferred the present writ petition seeking appropriate directions against further recovery and for refund of the amount already recovered.

2.3 Hence, the present writ petition.

3. Learned counsel for the petitioner argues that the Nagar Palika Balotra (Pradushan Janya Vyavsay Kar) Rules, 2003, are confined to the territorial limits of Municipal Council, Balotra, as expressly provided under Rule 1(2) thereof, whereas the petitioner's industrial unit falls within the territorial jurisdiction of Municipality, Jasol, and therefore, the levy and recovery of CESS from the petitioner are without jurisdiction and authority of law. It is further contended that the recovery mechanism, whereby approximately 90% of the amount collected is transferred to a private trust and the collection is undertaken through private agencies, is contrary to Article 265 of the Constitution of India and suffers from arbitrariness, particularly when the petitioner is neither a member of the said trust nor availing any services of the CETP.

4.1 Learned counsel further contends that the petitioner has established its own Effluent Treatment Plant (ETP) and operates as a Zero Liquid Discharge (ZLD) unit, duly recognised by the Rajasthan State Pollution Control Board, and does not discharge any effluent into the environment or utilise the services of the CETP. It is submitted that the recovery of CESS from a non-member unit, which does not avail the services of the CETP, bears no rational nexus with the object of the levy and is contrary to the office order dated 29.05.2018 issued by the Rajasthan State Pollution

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Control Board, which restricts recovery of CETP operation and maintenance charges to member units in proportion to the effluent discharged. Learned counsel also submits that the coercive recovery of CESS by intercepting and detaining vehicles carrying raw material at the Balotra check-post adversely affects the petitioner's right to carry on trade under Article 19(1)(g) of the Constitution of India and amounts to deprivation of property without authority of law, contrary to Article 300A thereof.

4.2 Learned counsel lastly submits that despite repeated representations, including the representation dated 01.10.2026, the respondents have neither discontinued the recovery nor refunded the amount already collected. It is further contended that this Court, in ***D.B. Civil Writ Petition No. 21493/2026 titled M/s Mahir Mills v. State of Rajasthan & Ors.****, vide interim order dated 25.09.2026, has restrained the respondents from recovering CESS under the Rules of 2003 from a similarly situated industrial unit falling within the municipal limits of Jasol. Accordingly, it is prayed that the respondents be restrained from making further recovery of CESS and be directed to refund the amount already recovered from the petitioner.*

5. Per contra, learned counsel for the respondents opposes the submissions advanced by learned counsel for the petitioner and submits that the action of the respondents in recovering CESS is justified and in accordance with the applicable Rules.

6. We have heard the rival contentions and gone through the record appended with the writ petition.

7. In somewhat similar circumstances, another writ petition filed by similarly situated petitioners titled S.B. Civil Writ Petition No.1110/2021 is also stated to be sub-judice. The primary grievance of the petitioners before us, as is the case in the already pending petition ibid, is that they are not within the notified jurisdiction of either the Gram Panchayat of Jasol. Even otherwise, there is no notification issued by the concerned Municipality i.e. Municipal Council, Balotra to have notified the area in question to be within the limits of the Council. Thus, the Nagar Palika Balotra (Pradushan

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Janya Vyavsay Kar) Niyam, 2003 are not applicable under which the levy is being sought to be recovered.

8. At the very outset, we may like to observe that what leaves us completely nonplussed is the nature of relief sought before us as well as there being no formal administrative order under judicial review pursuant to which the levy is sought to be recovered by way of a CESS tax from the petitioner. For ready reference one of the illustrative prayer made in D.B. Civil Writ Petition No.25742/2026 is reproduced hereinbelow:-

> *"a) Allow the writ petition filed by the petitioner;*
> *b) Hold that the recovery of the Cess Tax from the petitioner firm is illegal as the rules of 2003 are not applicable to the petitioner firm;*
> *c) Direct the respondent no.4 and respondent no.5 and their agencies i.e. (Respondent no.6 and respondent no.7) to not recover the CESS Tax on CETP from the petitioner firm;*
> *d) Direct the respondent, no.4 and respondent no.5 and their agencies i.e. (Respondent no.6 and respondent no.7) to return the already recovered amount of CESS Tax from the petitioner firm.*
> *e) Any other writ, order or direction(s) in the facts and circumstances of the case may also be passed in favour of the petitioner as this Hon'ble Court may deem fit and proper;*
> *f) The costs of this writ petition may kindly be awarded to the petitioner."*

9. Prayer (a) is general in nature. As regards Prayer (b), (c) & (d) on a query posed to learned counsel for the respondents, it transpires that there is no formal administrative order passed by the competent authority before proceeding to levy the CESS tax which is currently being recovered from the petitioners. In this context, the interim order dated 10.07.2026 in 1110/2021 (supra) is reproduced hereinbelow:-

> *"The present second stay application has been filed by the applicant petitioner challenging the impugned action of respondent No.5 - Jasol Water Pollution Control & Treatment Trust in imposing and recovering amounts in the name of Cess from the petitioner firm either by itself or through its agencies.*

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The grievance of the petitioner is that respondent No.5 is attempting to impose or collect Cess in respect of the material brought for use within the territory of Jasol despite the fact that the petitioner firm has already established its own Effluent Treatment Plant and therefore, it is not a member of Respondent No. 5 and thus, Respondent No.5 is only entitled to recover Cess from the members of the trust and not from those who are not the members.

Learned counsel appearing for respondent No.5 submits that respondent Trust is only maintaining treatment plant in coordination with the local bodies. Learned counsel further submits that although the trust has no power to collect Cess but the local body which is duly empowered under the Nagar Palika Balotra (Pradushan Janya Vyavsay Kar) Rules, 2003 (For short, 'the Rules of 2003') can collect such Cess and share the revenue with the trust.

The grievance of the petitioner is that the petitioner firm originally was under the jurisdiction of Gram Panchayat, Jasol, which is now an independent Municipality and not within the territorial jurisdiction of Balotra Municipality and therefore, the Rules of 2003 are not applicable upon the petitioner firm.

Further, nothing has been brought on record before this court to show that any similar rules, akin to the Rules of 2003 have been framed in respect of Jasol.

Since, the relief in the present application is only sought against respondent No.5, which does not have the power to collect any Cess under the Rules of 2003 and considering the aforesaid facts and circumstances, respondent No.5 is restrained from collecting any Cess from the petitioner firm under the provisions of the Rules of 2003.

However, it is clarified that this order shall not come in the way of the competent local body from collecting any such Cess, provided it has the requisite statutory authority and competence to do so.

This Court also makes it clear that in the event the petitioner firm is found to fall within the territorial limits of Balotra Municipality, then it shall be at liberty to

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impose Cess as prescribed under the Rules of 2003.

With the said directions, the Second Stay Application stands disposed of.

List the matter on 14.08.2026."

10. It is not in dispute that the petitioners before us are also similarly situated as they claim themselves to be not within the territorial jurisdiction of Municipal Council, Balotra.

11. Be that as it may, we do no propose to tread the path of deciding the merits of the aforesaid contention unless there is a formal order passed by the competent authority taking a decision, either way, on the aforesaid contention of the petitioner.

12. In the premise, the writ petition is disposed of with a direction that the competent authority shall look into the entire matter and pass a speaking order qua territorial jurisdiction, and also, as to under which provisions of the Rules, the CESS tax is being levied and recovered from the petitioners so as to be in tune with the Constitutional mandate of Article 265 of the Constitution of India. The proposed decision be taken as expeditiously as possible.

13. Till the needful is done the respondents are restrained to cause any further recovery in terms of the interim order already granted to similarly situated petitioners whose petition is sub-judice.

14. Pending application(s), if any, shall also stand disposed of".

2. In the premise, the writ petition is disposed of with a direction that the competent authority shall look into the entire matter and pass a speaking order qua territorial jurisdiction, and also, as to under which provisions of the Rules, the CESS tax is being levied and recovered from the petitioners so as to be in tune with the Constitutional mandate of Article 265 of the Constitution of India. The proposed decision be taken within a period of 60 days. Till the needful is done the respondents are restrained to cause

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any further recovery in terms of the interim order already granted to similarly situated petitioners whose petition is sub-judice.

3. Pending application(s), if any, shall also stand disposed of.

(BALJINDER SINGH SANDHU),J **(SANJAY K. AGRAWAL),CJ**

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