

भारतीय राष्ट्रीय राजमार्ग प्राधिकरण
(पोत परिवहन, सड़क परिवहन और राजमार्ग मंत्रालय)
National Highways Authority of India

(Ministry of Shipping, Road Transport and Highways)

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No.11041/217/2007-Admn-I

29th March, 2007

POLICY CIRCULAR –ADMINISTRATION/FINANCE (09/2007)

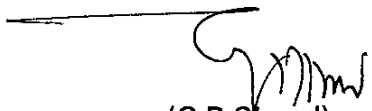
{Decision taken on Admn File No.11041/37/2001-Admn-I}

Sub : Implementation of Building & Other Construction Workers Welfare Cess Act, 1996 in NHAI

The Authority is regularly receiving references from various State Govts. for implementation of Building & Other Construction Workers Welfare Cess Act, 1996. The Act has come into force from 03rd November, 1995. It applies to the whole of India, and as per Section 2(d), NHAI comes under its purview.

2. As per Section 3 of the Act, a cess not exceeding 2% of construction cost but not less than 1%, is required to be paid by employers, for building and other construction workers. Contractors are 'employers' under the Act and are responsible for payment of the cess. Project Directors are, therefore, directed to ensure that the cess is collected (as per rates notified by concerned State Govt.) and deposited with respective designated Authority (i.e respective State Government's Building & Construction Workers Welfare Fund), within thirty days of its collection.

3. Copy of the Building & Other Construction Workers Welfare Cess Act, 1996 and Building & Other Construction Workers Welfare Cess Rules, 1998 are enclosed herewith. Project Directors may peruse the same and ensure strict compliance with its provisions.


(G.P Chand)
General Manager (Admn.)

All the PDs of CMU/PIUs

Copy to :

1. PS to Chairman
2. PS/PA to Members
3. CGMs/CVO

THE BUILDING AND OTHER CONSTRUCTION WORKERS' WELFARE CESS ACT, 1996

(28 of 1996)

[19th August, 1996]

An act to provide for the levy and collection of a cess on the cost of construction incurred by employers with a view to augmenting the resources of the Building and Other Construction Workers' Welfare Boards constituted under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Building and Other Construction Workers' Welfare Cess Act, 1996.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 3rd day of November, 1995.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) "Board" means a Building and other Construction Workers' Welfare Board constituted by a State Government under sub-section (1) of section 18 of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996;

(b) "Fund" means the Building and Other Construction Workers' Welfare Fund constituted by a Board;

(c) "prescribed" means prescribed by rules made under this Act;

(d) words and expressions used herein but not defined and defined in the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 shall have the meanings respectively assigned to them in that Act.

3. Levy and collection of Cess.—(1) There shall be levied and collected a cess for the purposes of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, at such rate not exceeding two per cent. but not less than one per cent. of the cost of construction incurred by an employer, as the Central Government may, by notification in the Official Gazette, from time to time specify.

(2) The cess levied under sub-section (1) shall be collected from every employer in such manner and at such time, including deduction at source in relation to a building or other construction work of a Government or of a public sector undertaking or advance collection through a local authority where an approval of such building or other construction work by such local authority is required, as may be prescribed.

(3) The proceeds of the cess collected under sub-section (2) shall be paid by the local authority or the State Government collecting the cess to the Board after deducting the cost of collection of such cess not exceeding one per cent. of the amount collected.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), the cess leviable under this Act including payment of such cess in advance may, subject to final assessment to be made, be collected at a uniform rate or rates as may be prescribed on the basis of the quantum of the building or other construction work involved.

COMMENTS

For the purposes of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (27 of 1996), a cess at the rate of one per cent. of the cost of construction incurred by the employer is to be levied and collected. *vide* S.O. 2899, dated 26th September, 1996.

4. Furnishing of returns.—(1) Every employer shall furnish such return to such officer or authority, in such manner and at such time as may be prescribed.

(2) If any person carrying on the building or other construction work, liable to pay the cess under section 3, fails to furnish any return under sub-section (1), the officer or the authority shall give a notice requiring such person to furnish such return before such date as may be specified in the notice.

THE BUILDING AND OTHER CONSTRUCTION WORKERS' WELFARE CESS RULES, 1998¹

In exercise of the powers conferred by sub-section (1) of section 14 of the Building and Other Construction Workers' Welfare Cess Act, 1996 (Act 28 of 1996), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.—(1) These rules may be called the Building and Other Construction Workers' Welfare Cess Rules, 1998.

(2) They shall come into force on the date² of their publication in the Official Gazette.

2. Definitions.—In these rules, unless the context otherwise requires,—

(a) 'Act' means the Building and Other Construction Workers' Welfare Cess Act, 1996 (Act 28 of 1996).

(b) 'Main Act' means the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (Act 27 of 1996).

(c) 'Form' means the form annexed to these rules.

(d) All other words and expressions used in these rules but not defined and defined in the Act or in the main Act shall have the meanings respectively assigned to them in those Acts.

(e) 'Specified' means specified by a State Government by an order published in the Official Gazette.

(f) 'Cess Collector' means an officer appointed by the State Government for collection of cess under the Act.

(g) 'Assessing Officer' means a gazetted officer of a State Government or an officer of a local authority holding an equivalent post to a gazetted officer of the State Government appointed by such State Government for assessment of Cess under the Act.

(h) 'Appellate Authority' means an officer, senior in rank to the Assessing Officer, appointed by the State Government for the purposes of section 11 of the Act.

3. Levy of cess.—For the purpose of levy of cess under sub-section (1) of section 3 of the Act, cost of construction shall include all expenditure incurred by an employer in connection with the building or other construction work but shall not include—

—cost of land;

—any compensation paid or payable to a worker or his kin under the Workmen's Compensation Act, 1923.

4. Time and manner of collection.—(1) The cess levied under sub-section (1) of section 3 of the Act shall be paid by an employer, within thirty days of completion of the construction project or within thirty days of the date on which assessment of cess payable is finalised, whichever is earlier, to the cess collector.

(2) Notwithstanding the provisions of sub-rule (1), where the duration of the project or construction work exceeds one year, cess shall be paid within thirty days of completion of one year from the date of commencement of work and every year thereafter at the notified rates on the cost of construction incurred during the relevant period.

(3) Notwithstanding the provisions of sub-rule (1) and sub-rule (2), where the levy of cess pertains to building and other construction work of a Government or of a Public Sector Undertaking, such Government or the Public Sector Undertaking shall deduct or cause to be deducted the cess payable at the notified rates from the bills paid for such works.

(4) Notwithstanding the provisions of sub-rule (1) and sub-rule (2), where the approval of a construction work by a local authority is required, every application for such approval shall be accompanied by a crossed demand draft in favour of the Board and payable at the station at which the Board is located for an amount of cess payable at the notified rates on the estimated cost of construction:

Provided that if the duration of the project is likely to exceed one year, the demand draft may be for the amount of cess payable on cost of construction estimated to be incurred during one year from the date of commencement and further payments of cess due shall be made as per the provisions of sub-rule (2).

(5) An employer may pay in advance an amount of cess calculated on the basis of the estimated cost of construction along with the notice of commencement of work under section 46 of the Main Act by a crossed demand draft in favour of the Board and payable at the station at which the Board is located:

Provided that if the duration of the project is likely to exceed one year, the demand draft may be for the amount of cess payable on cost of construction estimated to be incurred during one year from the date of such commencement and further payment of cess due shall be made as per the provisions of sub-rules (2).

(6) Advance cess paid under sub-rules (3), (4) and (5), shall be adjusted in the final assessment made by the Assessing Officer.

5. Transfer of the proceeds of the cess to the Board.—(1) The proceeds of the cess collected under rule 4 shall be transferred by such Government office, Public Sector Undertakings, local authority, or cess collector, to the Board alongwith the form of challan prescribed (and in the head of account of the Board) under the accounting procedures of the State, by whatever name they are known.

(2) Such government office of Public Sector Undertaking may deduct from the cess collected, or claim from the Board, as the case may be, actual collection expenses not exceeding one per cent. of the total amount collected.

(3) The amount collected shall be transferred to the Board within thirty days of its collection.