

BUILDING AND OTHER CONSTRUCTION WORKERS' WELFARE CESS ACT, 1996

[CENTRAL & STATE]

NOTIFICATION

No. S.O.2899, dated 26th September, 1996

Gazette of India, Extraordinary, dated 12-10-1996

In exercise of powers conferred by sub-section (1) of Section 3 of the Building and Other Construction Workers' Welfare Cess Act, 1996 (28 of 1996) and in supersession of the notification of the Government of India in the Ministry of Labour, No, S.O.1762, dated the 17th May, 1996, the Central Government specifies a cess for the purposes of the Building and Other Construction Workers' (Regulation of Employment and Other Conditions of Service) Act, 1996 (27 of 1996), at the rate of 1 per cent, of the cost of construction incurred by an employer.

NOTIFICATION

No. SO 669(E), dated 14th July, 2000

Gazette of India, Extraordinary, No.470, dated 14-07-2000

In pursuance of clause (1) of Article 239 of the Constitution, the President hereby direct that the Administrators of all the Union Territories (whether known as the Administrator, the Lieutenant Governor or the Chief Commissioner) shall, subject to the control of the President and until further orders, also exercise the powers and discharge the functions of the State Government under the provisions of the Building and Other Construction Workers' Welfare Cess Act, 1996 (28 of 1996) within their respective Union Territories.

PROCEEDINGS

Subject: Collection of Cess to the rate of 1% of the cost of the
Construction incurred by the Builder/employer etc.; under

the Building and Other Construction Workers' Welfare Cess Act, 1996.

Read: (1) Central Government Notification dated 26th September, 1996.

(2) Government Notification No.LD 168/LET/2004, dated 1st November, 2006.

Preamble:

The Government of Karnataka with a view to enforce the provisions of the Building and Other Construction Workers' [Regulation of Employment and Conditions of Service] Act, 1996 [hereinafter referred to as the main Act'] has formulated rules namely, the Building and Other Construction Workers' [Regulation of Employment and Conditions of Service] Rules, 2006 vide Government Notification read as [2] above.

The Central Government has enacted a legislation namely the Building and Other Construction Workers' Welfare Cess Act, 1996 and framed Rules thereunder, which provides for the levy and collection of cess on the cost of construction incurred by employers/ builders for augmenting the resources of Building and Other Construction Workers Welfare Board constituted under the main Act. The Central Government's Notification has prescribed collection of cess at the rate of 1% of the cost of construction incurred by employer which shall exclude the cost of land and any compensation paid or payable to a worker or his kin under Workmen's Compensation Act, 1923. Levying and collection of cess is on the cost of construction in respect of Building or other Construction Works as defined under Section 2[d] of the main Act.

The levying and collection of cess from the employer to whom the provisions of the main Act is applicable shall be mandatory and such of the employer are required to pay the cess amount to the Board constituted under the main Act Section 3[2] of the Cess Act, 1996, provides for collection of cess. The section 3[2] is reproduced hereunder:

"3[2] The Cess levied under sub-section [1] shall be Collected form 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."

Similarly, the definition given under Section 2[d] of the main Act is also reproduced hereunder:

"2[d] "Building or other construction work" means the Construction, alteration, repairs, maintenance or demolition, of or, in relation to buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works [including storm water drainage works] generation, transmission and distribution of power, water works [including channels for distribution of water] Oil and gas installatious, electric lines, wireless, radio, television, telephone, telegraph and overseas, communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aquaducts, pipelines, towers, cooling towars, transmission towers and such other work as may be specified in this behalf by the appropriate Government, by notification but does not include any building or other construction work to which the provision of the Factories Act, 1948 (Central Act No. 63 of 1948) or the Mines Act, 1952 [Central Act No. 35 of 1952] apply."

The main Act applies to every establishment, which employs or had employed on any day of the preceding 12 months, 10 or more workers in any building or other construction work. Thus every establishment to whom this Act applies whether appropriate Government in respect of such establishment is either the Central Government or State Government, employer of such establishment shall have to collect and pay the cess amount to the Karnataka State Construction Workers' Welfare Board in the manner as laid down under the Building and Other Construction Workers' Welfare Cess Act, 1996 and its rules thereunder.

As per the provisions of the Cess Act, 1996 the following persons are liable to pay the Cess:

- I. In respect of the government departments, public sector undertaking and other government agencies, such as BDA, BWSSB, KPTCL, KPC, BESCOMS's, Railway authorities, Airport Authorities, Land Army, Construction Corporation etc.; where work is carried on by them directly without any contractor, the head of the Department and if the work is carried on through a contractor, the Authority specified in this behalf or where no Authority is specified, the Head of the Department.
- II. In respect of the local Authority, where work is carried out directly or through a contractor, the Chief Executive Officer of that establishment.
- III. In respect of the individual residential house, the owner himself.
- IV. In case of group housing, big malls, hospitals and apartment, the builders or the contractors as the case may be.

Though, the Building and Other Construction Workers' Welfare Cess Act, 1996, came into operation with effect from 3rd day of November, 1995, the Government has decided to collect cess now with immediate effect. In this background, following is the Government Order:

G.O.No.LD 300 LET 2006, Bangalore, dated 18th January, 2007

In the light of the decision taken by the Government to enforce the provisions of the Building and Other Construction Workers Welfare Cess Act, 1996, it is ordered that.-

- a) All Government Departments, public sector undertakings and other governmental agencies/ bodies carrying out any building or other construction works which are covered under Section 2[d] of the main Act shall, in case the work is carried out through a Contractor deduct 1% of the amount of the cost approved as per the tender notification from the bill at the time of making payment to the contractors and such amount so deducted from the contractors' bill shall be remitted by way of account payee cheque in favour of the Karnataka State Building and Other Construction Workers' Welfare Board within 30 days of making such payment along with a forwarding letter addressed to the Secretary-cum-Chief Executive Officer, Karnataka State Building and Other Construction Workers' Welfare Board, 3rd stage, Karmika Bhavan, Bannerghatta Road, Bangalore-29.

Where tender has been submitted of finalized and work is entrusted to a contractor prior to 1-11-2006, in such cases, 1% cess has to be paid by the concerned department to Board as mentioned supra.

- b) In case the aforesaid work is carried out internally of departmentally without engaging contractors, the 1% of the total cost shall be remitted by the Chief Executive of the department/organisation by account payee cheque drawn in favour of the Karnataka State Building and Other Construction Workers Welfare Board by the Government Departments, public sector Undertakings and other government bodies.
- c) Where the approval of the construction work by local authority is required, all local authorities mainly Bangalore Mahanagara Palike, and all City corporations, Municipal Corporations and Town Municipalities, Panchayats etc.; shall obtain estimated cost of the construction along with building plans, which are submitted for approval by concerned employers, i.e., owners/contractors / builders etc; such bodies shall collect upfront an amount of 1% of the estimated cost furnished along with building plans, and remit by way of a crossed demand draft payable in favour of the Karnataka State Building and Other Construction Workers' Welfare Board, along with forwarding letter within 30 days in terms of Rules 5[3] of the Building and Other Construction Workers' Welfare Cess Rules, 1998. The local bodies before remitting the amount of cess of the board can deduct 1% of the total amount collected for meeting their administrative expenses.
- d) The provisions of the Act is not applicable individual residential house whose total cost does not exceed Rs. 10 Lakhs. In other cases, they are liable to pay the cess.
- e) It is mandatory for every employer of the establishment to whom the provisions of the main Act is applicable to furnish a return in Form I to the concerned Assessing Officer in terms of Section 4 of the Building and Other Construction Workers' Welfare Cess Act, 1996 and its Rules thereunder 1998.

By order and in the name of the
Governor of Karnataka

Sd/-
[Vimala kumari]
Under Secretary to Government,
Labour Department

GOVERNMENT OF KARNATAKA

No. LD 300 LET 2006

Karnataka Government Secretariat,
Vikasa soudha,
Bangalore, dated 28-2-2007.

CORRIGENDUM

In order portion of the G.O. No.LD 300 LET 2006 dated 18-01-2007, the Para No. (c) is deleted and the following para is substituted.

(c) " Where the approval of the construction work by local authority is required, all local authorities mainly Bangalore Mahanagara palike, and all City Corporation, Municipal Corporations and Town Municipalities, Panchayats etc; shall obtain estimated cost of the construction along with building plans, which are submitted for approval by concerned employers, i.e., owners/contractors/builders etc; such bodies shall collect by way of demand draft in favour of Karnataka State Building and Other Construction Workers' Welfare Board upfront an amount of 1% of the estimated cost furnished along with building plans, and remit the demand draft to the Karnataka State Building and Other Construction Workers' Welfare Board, along with forwarding letter within 30 days in terms of Rules 5[3] of the Cess Rules 1998. The Board shall give back 1% of the such total collection to the local body for the services rendered."

By order and in the name of the
Governor of Karnataka

Sd/-
[Vimala kumari]
Under Secretary to Government,
Labour Department