

**NOTIFICATIONS
UNDER
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 the 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 March, 1996, the Central Government specifies a cess for the purpose 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 percent, of the cost of construction incurred by an employer.

**NOTIFICATION
No.SO 699(E), dated 14th July, 2000
Gazette of India, Extraordinary, No. 470, dated 14-7-2000**

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
Karnataka Gazette, dated 6-2-2007

Subject: Collection of Cess to the rate of 1% of the cost of the Construction incurred by the building/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. LD168/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 at (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 include 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 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 collection 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.”

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 installations, electric lines, wireless, radio, television, telephone, telegraph and overseas, communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqueducts, pipelines, towers, cooling towers, 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 provisions 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 employees 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 Central Government or State Government, employer 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 rule 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 undertakings and other governmental agencies, such as BDA, BWSSB, KPTCL, BPC, BESCO’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.

Through, the Building and Other Construction Workers' 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 this 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 contractor's 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 or finalized and work is entrusted to a contractor prior to 1-11-2006, in such cases, 1% cess had to be paid by the concerned department to Board as mentioned supra.

- (b) In case the aforesaid work is carried out internally or 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 by way of demand draft in favour of Karnataka State Building and Other Construction Workers' Welfare Board, upfront an amount of % 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 Rule 5(3) of the Cess Rules, 1998.

The Board shall give back 1% of the total amount collection to the local body for the service rendered.

[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 the cost of construction estimated to be incurred during one year from the date of commencement, in terms of the proviso to sub-rule (4) of Rule 4 of the Building and Other Construction Worker Welfare Cess Rules, 1998 and further payments of cess due shall be made as per the provisions of sub0rule (2) of Rule 4 of the said Rules.]

[(ca) The Government Authorities taking up construction work shall ensure all the contractors or any sub-contractor hired by the main contractors get registration under Section 7 of the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996. Similarly, all the construction workers shall get registration under Section 12 of the Act. The tender inviting authorities shall incorporate this clause in the tender as well as in the contract agreement. The Government Authority should verify the registration under Section 7 and Section 12 of the Act before making payment of running bills.

(cb) The Local Authority before giving permission/approval for building sanction plan, shall put a condition in the plan sanction order ensuring registration of the builder/contractor and the construction workers working in the construction site. Before issuance of the Commencement Certificate, Local Authority shall demand registration of establishment and construction workers. At the time of issuance of Commencement Certificate the builder/contractor shall submit the list of workers engaged by him to the Local Authority by the builder/contractor. At any point of time no builder/contractor shall engage a construction worker in his site or workplace who is not registered with the "Karnataka Building and Construction Workers' Welfare Board". The Local Authority shall also

inspect the establishment and ensure the registration of the establishment and workers working at construction site or workplace.]

- (d) The Provisions of the Act is not applicable to 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 Rule thereunder 1998.

CORRIGENDUM
No. LD 300 LET 2006, Bangalore, dated 28th February, 2007
Karnataka Gazette, dated 5-4-2007.

In order portion of the G.O No. LD 300 LET 2006, dated 18-1-2007, 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 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 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 Rule 5(3) of the Cess Rules, 1998. The Board shall give back 1% of the such total collection to the local body for the service rendered”.

CORRIGENDUM
No. LD 300 LET 2006, Bangalore, dated Nil.

In the Corrigendum No. LD 300 LET 2006, dated 28-2-2007, the following para shall be added after the end of para ‘c’.

“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 the cost of construction estimated to be incurred during one year from the date of commencement, in terms of the proviso to sub-rule (4) of Rule 4 of the Building and Other Construction Workers Welfare Cess Rules, 1998 and further payments of cess due shall be made as per the provisions of sub-rule (2) of Rule 4 of the said Rules”.

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