



Eastern Railway
Accounts Department, Howrah.

No. 44/A/Exp/Misc./2023.

Dated – 10/01/24.

All Branch Officers,
Eastern Railway, Howrah.

Sub : Levy of Labour Cess (BOCCW Cess) from the Contractors Bill.

Ref : i) Sr.Audit Officer/ER/HWH L/No.DGA/HWH/26-RAN/08/2023-24/697. Dtd-27.12.23.

ii) RB's L/No.2008/CE-I/CT/6. Dtd-29/11/2013.

iii) The Building and Other Construction Workers' Welfare Cess Act, 1996 “.

According to RB's circular vide reference above instructions were issued for implementation of “The Building and Other Construction Workers (RECS) Act, 1996” and The Building and Other Construction Workers' Welfare Cess Act, 1996 “ (BOCCW) in works contracts of Indian Railways. Zonal Railways were also directed to include a clause in their Tender Notice and Tender Documents. As per this Act, the tenderer shall be levied a Cess of @1% of the cost of Construction work which would be deducted from each bill. Cost of Material, when supplied under a separate schedule item, shall be outside the purview of the Cess.

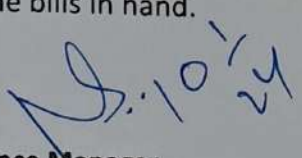
Basing on the related issue Audit Department vide letter under reference (i) above has stated that levy of Labour Cess has not properly been followed in this division due to non-recovery from the bills of different contractors.

In this regard, reference has been given – Section 2(d) of Building and Other Construction Workers (Regulation of Employment and Conditions of Service), Act 1996 wherein the definition of the “Building and Other Construction Work” is given as it means the Construction, Alteration, Repairs, Maintenance & 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 and Overseas Communications, Dams, Canals, Reservoirs, Watercourses, Tunnels, Bridges, Viaducts, Aquaducts, Pipelines, Towers, Cooling Towers, Transmission Towers and such other works 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 (63 of 1948), or the Mines Act, 1952 (35 of 1952), apply.


A review has been undertaken by this office which reveals that BOCCW Cess is levied only from the Civil Engineering Contracts. As per provision of Building and Other Construction Workers (Regulation of Employment and Conditions of Service), Act 1996 the BOCCW Cess should be levied from all the works as detailed above. So, to comply with the provision of Act and Audit observations it is requested to implement the procedure levying of BOCCW Cess (Labour Cess) from all the contracts which come under the scope of the above Acts, 1996. Finally all these levied amount sent to concerned

Government as per provision of the Act. (Kindly consider all the related circulars as given under reference above for transparency of the provision).

So, it is requested to kindly incorporate the provision of levy of Labour Cess (BOCCW Cess) @1% in the Tender Conditions and also strengthen the machinery down the line to effect the provision effectively. Further, it is also requested to deduct the Labour Cess from all the Contractual Bill (as per applicability) as arrear where Labour Cess has not been deducted at all with the bills in hand.


Sr. Divl. Finance Manager
Eastern railway, Howrah.

1. Copy to Ps to DRM for kind information of DRM/Howrah.
2. Copy to CPM/GSU for kind information and necessary action please.
3. Copy to ADRM/Admin, ADRM/OP for kind information and necessary action please.


Sr. Divl. Finance Manager
Eastern railway, Howrah.



भारत सरकार Government Of India
रेल मंत्रालय Ministry Of Railways
(रेलवे बोर्ड) (Railway Board)

No. 2008/CE-I/CT/6

New Delhi, Dated 29.11.2013

Addressed To :
(As per Mailing List 'A' Attached).

Sub : Addendum & Corrigendum Slip (ACS) No. 4 to GCC, July 2013 : **Clause 55-C :** Implementation of "The Building and Other Construction Workers (RECS) Act, 1996" and "The Building and Other Construction Workers' Welfare Cess Act, 1996" in works contracts on Indian Railways.

Ref : Railway Board's Circular no. 2008/CE-I/CT/6, dated 09.07.2008.

1. Vide Board's circular under reference, instructions were issued regarding implementation of "The Building and Other Construction Workers (RECS) Act, 1996" and "The Building and Other Construction Workers' Welfare Cess Act, 1996" in works contracts of Indian Railways. Zonal Railways / PUs etc. were also directed to include a Clause in their Tender Notice / Tender Documents.
2. With a view for enabling Railways in implementation of the provisions of these Acts; Ministry of Railways have decided that the following contents shall be added as Clause 55-C to the General Conditions of Contract, as per Addendum & Corrigendum Slip (ACS) No. 4, enclosed as Annexure-I to this circular :

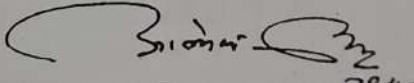
"Clause 55-C to GCC : Provisions of "The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996" and "The Building and Other Construction Workers' Welfare Cess Act, 1996" :

The tenderers for carrying out any construction work must get themselves registered from the Registering Officer under Section-7 of the Building and Other Construction Workers Act, 1996 and rules made thereto by the concerned State Govt. and submit certificate of Registration issued from the Registering Officer of the concerned State Govt. (Labour Dept.). As per this Act, the tenderer shall be levied a cess @ 1% of cost of construction work, which would be deducted from each bill. Cost of Material, when supplied under a separate schedule item, shall be outside the purview of cess."

3. Other instructions issued vide circular under reference shall continue to apply.
4. This issues with the concurrence of the Finance Directorate of Ministry of Railways.

Please acknowledge receipt.

संलग्नक/उपरोक्तानुसार


(आलोक कुमार)

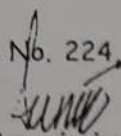
कार्यकारी निदेशक/सिविल इंजीनियरिंग(जी)/रेलवे बोर्ड

No. 2008/CE-I/CT/6

New Delhi, Dated 29.11.2013

Copy forwarded for information to :

1. The FA&CAOs, All Indian Railways.
2. The Deputy Comptroller & Auditor General of India (Railways), Room No. 224, Rail Bhawan, New Delhi.


For Financial Commissioner/ Railways



भारत सरकार Government Of India
रेल मंत्रालय Ministry Of Railways
(रेलवे बोर्ड) (Railway Board)

Addendum & Corrigendum Slip (ACS) No. 4 to General Conditions of Contract

{Ref : Railway Board's letter no. 2008/CE-I/CT/6, dated 29.11.2013}

"Clause 55-C to GCC : Implementation of "The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996" and "The Building and Other Construction Workers' Welfare Cess Act, 1996" :

The tenderers for carrying out any construction work must get themselves registered from the Registering Officer under Section-7 of the "Building and Other Construction Workers Act, 1996" and rules made thereto by the concerned State Govt. and submit certificate of Registration issued from the Registering Officer of the concerned State Govt. (Labour Dept.). As per this Act, the tenderer shall be levied a cess @ 1% of cost of construction work, which would be deducted from each bill. Cost of Material, when supplied under a separate schedule item, shall be outside the purview of cess."

{Authority : Railway Board's Circular no. 2008/CE-I/CT/6, dated 29.11.2013}

E/circular

Sec 2

The Building and other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996

1

THE BUILDING AND OTHER CONSTRUCTION WORKERS' (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1996¹

(27 OF 1996)

[19th August, 1996]

An Act to regulate the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare measures and for other matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-seventh year of the Republic of India as follows:

CHAPTER I PRELIMINARY

1. Short title, extent, commencement and application:-(1) This Act may be called the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 1st day of March, 1996.

(4) It applies to every establishment which employs, or had employed on any day of the preceding twelve months, ten or more building workers in any building or other construction work.

Explanation: For the purposes of this sub-section, the building workers employed in different relays in a day either by the employer or the contractor shall be taken into account in computing the number of building workers employed in the establishment.

2. Definitions:-(1) In this Act, unless the context otherwise requires—

(a) "appropriate Government" means:

(i) in relation to an establishment (which employs building workers either directly or through a contractor) in respect of which the appropriate Government under the Industrial Disputes Act, 1947 (14 of 1947), is the Central Government, the Central Government;

(ii) in relation to any such establishment, being a public sector undertaking, as the Central Government may, by notification, specify which employs building workers either directly or through a contractor, the Central Government;

Explanation: For the purposes of this sub-clause (ii), "public sector undertaking" means any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), which is owned, controlled or managed by the Central Government;

(iii) in relation to any other establishment which employs building workers either directly or through a contractor, the Government of the State in which that other establishment is situate;

(b) "beneficiary" means a building worker registered under section 12;

(c) "Board" means a Building and Other Construction Workers' Welfare Board constituted under sub-section (1) of section 18;

(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,

¹ Received the assent of the President on 19th August 1996 and published in Gazette of India Extra Pt. II Sec I dated 20th August 1996.

The Building and other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996

Sec 3

- 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 (63 of 1948), or the Mines Act, 1952 (35 of 1952), apply;
- (e) "building worker" means a person who is employed to do any skilled, semi-skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, in connection with any building or other construction work but does not include any such person—
- (i) who is employed mainly in a managerial or administrative capacity; or
 - (ii) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature;
- (f) "Chief Inspector" means the Chief Inspector of Inspection of Building and Construction appointed under sub-section (2) of section 42;
- (g) "contractor" means a person who undertakes to produce a given result for any establishment, other than a mere supply of goods or articles of manufacture, by the employment of building workers or who supplies building workers for any work of the establishment, and includes a sub-contractor;
- (h) "Director-General" means the Director-General of Inspection appointed under sub-section (1) of section 42;
- (i) "employer" in relation to an establishment, means the owner thereof, and includes—
- (i) in relation to a building or other construction work carried on by or on behalf of a local authority or other establishment, directly without any contractor, the chief executive officer of that authority or establishment;
 - (ii) in relation to a building or other construction work carried on by or through a contractor, or by the employment of building workers supplied by a contractor, the contractor;
- (j) "establishment" means any establishment belonging to, or under the control of, Government, any body corporate or firm, an individual or association or other body of individuals which or who employs building workers in any building or other construction work; and includes an establishment belonging to a contractor, but does not include an individual who employs such workers in any building or contraction work in relation to his own residence the total cost of such construction not being more than rupees ten lakhs;
- (k) "Fund" means the Building and Other Construction Workers' Welfare Fund of a Board constituted under sub-section (1) of section 24;
- (l) "notification" means a notification published in the Official Gazette;
- (m) "prescribed" means prescribed by rules made under this Act by the Central Government or, as the case may be, the State Government;
- (n) "wages" shall have the same meaning as assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936 (4 of 1936).

(2) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

CHAPTER II

THE ADVISORY COMMITTEES AND EXPERT COMMITTEES

3. Central Advisory Committee:—(1) The Central Government shall, as soon as may be, constitute a Committee to be called the Central Building and Other Construction Workers' Advisory Committee (hereinafter referred to as the Central Advisory Committee) to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it.

(2) The Central Advisory Committee shall consist of—

- (a) a Chairperson to be appointed by the Central Government;
- (b) three Members of Parliament of whom two shall be elected by the House of the People and one by the Council of States—members;