

BUILDING AND OTHER CONSTRUCTION WORKERS' WELFARE CESS RULES, 1998

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 2

-cost of land;

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

1.	Vide G.S.R. 49(E), dated 26th March, 1998, published in the Gazette of India, Extra., Pt. II, Sec. 3 (i), dated 26th March, 1998
2.	Came into force on 26th March, 1998

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), adjusted 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 percent. of the total amount collected.

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

(3) If on scrutiny of information furnished, the Assessing Officer is of the opinion that employer has under-calculated or miscalculated the cost of construction or has calculated less amount of cess payable, he shall issue notice to the employer for assessment of the cess.

(4) On receipt of such notice the employer shall furnish to the Assessing Officer a reply together with copies of documentary or other evidence in support of his claim, within fifteen days of the receipt of the notice:

Provided that the Assessing Officer may, in the course of assessment, afford an opportunity to the assessee to be heard in person, if he so requests to substantiate his claim.

(5) If the employer fails to furnish the reply within the period specified under sub-rule (4), or where an employer fails to furnish information in Form I, the Assessing Officer shall proceed to make the assessment on the basis of available records, and other information incidental thereto.

(6) The Assessing Officer may, at anytime while the work is in progress, authorise such officer to make such enquiry at the work site or from documentary evidence or in any other manner as he may think fit for the purpose of estimating the cost of construction as accurately as possible.

8. Return of overpaid cess.- (1) Where the Assessing Officer has passed an order of assessment and the employer decides to withdraw from or foreclose the works or modifies the plan of construction thereby reducing the cost of construction undertaken or has been forced by other circumstances to call off the completion of the work undertaken he may seek revision of the assessment order by making an information in Form II to the Assessing Officer giving details of such reduction or stoppage of work.

(2) Revision of order of assessment shall be made by the Assessing Officer, in the same manner as the original order, within thirty days of receipt of such information in Form II.

(3) Following the revision of assessment as per sub-rule (2), the Assessing Officer shall, wherever necessary, endorse a copy of the revised assessment to the Board or cess collector, as the case may be, for making the refund of excess cess as ordered in the revised assessment.

(4) The Board shall, within thirty days of receipt of the endorsement from the Assessing Officer under sub-rule (3), refund the amount specified in the order to the employer through a demand draft payable at the station where the establishment is located.

(5) Where the Appellate Authority has modified the order of assessment reducing the amount of cess, refund shall be made within such time as may be specified in that order.

9. Exemption.- (1) Any employer or class of employers in a State seeking exemption under section 6 of the Act may make an application to the Director General of Labour Welfare, Ministry of Labour, Government of India, stating the details of works Undertaken, name of The Act or corresponding law in force in that State under which he is liable to pay cess for the welfare of the construction workers and amount of cess actually paid along With the date of such payment and proof thereof. A copy of such application shall be endorsed to each of the Assessing Officer and the board concerned.

from the State Government concerned.

(3) On examining the grounds, facts and merits of such application the Central Government may, by notification in the Official Gazette, issue an order exempting the employer or class of employers, as the case may be, from payment of cess payable under the Act where such cess is already levied and payable under such corresponding law.

(4) Assessment proceedings shall be stopped by the Assessing Officer for a period of thirty days commencing from the date of the receipt of a copy of the application under sub-rule (1) to him, or till the order of the Central Government under sub-rule (3) is conveyed to an employer or class of employers who made the application under sub-rule (1), whichever is earlier.3

10. Powers of Assessing Officer and other officers.- (1) An Assessing Officer, or an officer authorised under sub-rule (8) of Rule 7, if empowered by the State Government under section 7 of ion iero.z(1) Any er

- (h) take measurement, notes or photographs;
- (i) exercise such other powers considered absolutely necessary for reasonable assessment of cost of construction.

11. Date of payment.- Of cess shall be the date on which the amount is deposited with the cess collector under sub-rule (1) of rule 4, or the date of deduction at source under sub-rule (3) of rule 4, or the date on which the draft has been deposited with the local authority under sub-rule (4) of rule 4, as the case may be.

12. Penalty for non-payment.- (1) An Assessing Officer, if it appears to him that an employer has not paid the cess within the date as specified in the assessment order or has paid less cess, including the cess deducted at source or paid in advance, shall issue a notice to such employer that it shall be deemed to be in arrears and such Assessing Officer may, after such inquiry as it deems fit, impose on such employer a penalty not exceeding such amount of cess:

Provided that before imposing any such penalty, such employer shall be given a reasonable opportunity of being heard and if after such hearing the Assessing officer is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed on such employer.

13. Recovery of overdue amount.-For the purpose of recovery of sums due on account of unpaid cess, interest for overdue payment or, penalty under these rules, the assessing officer shall prepare a certificate signed by him, specifying the amount due and send it to the collector of the district concerned who shall proceed to recover from the said employer the amount specified thereunder as if it were an arrear of land revenue.

14. Appeal.- (1) An employer aggrieved by an order of the assessment made under rule 7 or by an order imposing penalty made under rule 12 may appeal against such order, within three months of the receipt of such order, to the Appellate Authority.

(2) The appeal shall be accompanied with-

- (a) the order appealed against;
- (b) a certificate from the cess collector to the effect that the amount of cess or penalty or both, as the case may be, relating to such appeal has been-deposited;

(c) a fee equivalent to one per cent. of the amount in dispute or penalty or both, as the case may be, under such appeal.

(d) a statement of points in dispute;

(e) documentary evidence relied upon.

(3) On receipt of the appeal the Appellate Authority may call from the Assessing Officer a statement on the basis of his assessment order appealed against, as such Appellate Authority may consider necessary for the disposal of such appeal;

(4) The Appellate Authority shall give the appellant an opportunity of being heard in the matter and dispose of the appeal as expeditiously as possible.


(11) An order in appeal reducing, enhancing or confirming the orders of penalty, as the case may be, shall also specify the date by which the amount of penalty should be paid/refunded.

15. Filing of Complaints.-

FORM I

(See rule 7)

1.	Name of Establishment	Registration No. under Building and other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996. Registering Authority
2.	Address	
3.	Name of Work	
4.	No. of Workers employed	
5.	Date of commencement of work Date Month Year	Estimated period work : <u>Month</u> <u>Year</u>



TO BE FILLED BY ASSESSING OFFICER

7.	Date of completion	
8.	Final cost	
9.	Date of assessment	
10.	Amount assessed	
11.	Date of Appeal, if any	
12.	Date of order in Appeal	
13.	Amount as per Order in Appeal	
14.	Date of transfer of cess to the Board	

15.

		1996
<i>Address :</i>		
II.	Date of Commencement of work <u>Date</u> <u>Month</u> <u>Year</u> Estimated cost of work (original)	Estimated period of work : <u>Month</u> <u>Year</u> Advance cess/Deduction at source Date of Assessment Order Amount of cess assessed
III.	Modification to the original estimates Revised date of completion/date of stoppage	