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PART-I

Notifications, Orders and Declarations by Haryana Government

HARYANA GOVERNMENT

LABOUR DEPARTMENT

Notification

The 13 June, 2019

No. 2/21/2019-2Lab.— The Governor of Haryana is pleased to introduce “Transparent Assessment Policy” for cess assessment of the establishments under the Building & Other Construction Workers Welfare Cess Act, 1996 in transparent and accountable manner in pursuance of implementation of the Ease of Doing Business.

TRANSPARENT ASSESSMENT POLICY

In order to ensure the assessment of cess of all the establishments under the Building & Other Construction Workers Welfare Cess Act, 1996 in a transparent and accountable manner through wide scale adoption of technology and innovation, a new comprehensive Transparent Assessment Policy has been formulated with following objectives:-

- To simplify the process and remove physical touch points.
- To regulate the levy, collection and assessment of cess in transparent and accountable manner.
- To eliminate the arbitrariness and adhocism.
- To maintain a centralize database.

Applicability and Levy of cess

The cess is being levied and collected at the rate of one percent of the total cost of construction incurred by an employer for the purpose of Building & Other Construction Worker’s (RE & CS) Act, 1996. The cost of construction includes all expenditure incurred by employer in connection with the Building & Other Construction Work but shall not include-

- (i) Cost of Land
- (ii) Any compensation paid or payable to a worker or his kin under the Workmen’s Compensation Act, 1923.

The cess is to be paid by an employer, within 30 days of completion of the construction project or within 30 days of the date on which assessment of cess payable is finalized. Where the duration of the construction work exceeds one year, cess shall be paid within 30 days of completion of one year on the basis of the cost of construction incurred during the relevant period.

The 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 Building & Other Construction Workers (RE&CS) Act, 1996.

Part 1**Cess Assessment of Registered Establishments****(i) Submission of on-line application**

The employer will submit the information on-line in Form No. 1 under the Building & Other Construction Workers Welfare Cess Rules, 1998 within 30 days of the completion of construction work alongwith relevant/requisite documents and Balance Sheet duly verified by the Chartered Accountant.

(ii) Cess Calculator

The employer, who furnishes information on the departmental portal and fill-up the BIP will get to know the final amount of cess to be paid by the employer, through the cess calculator system.

(iii) Selection of Assessing Officer

- The Assessing Officer or team of Assessing Officers for conducting any assessment in the State shall be selected by the computerized system based upon a pre-determined criteria.
- The Chief Inspector of Inspection of Building and Other Construction may change the Assessing Officer or team of Assessing Officers, keeping in the view of no. of assessment cases in the particular area of jurisdiction at any time.

(iv) Cess Assessment

The Assessing Officer will make a scrutiny of application and documents submitted online by the employer. In case, the documents are complete and after satisfying himself the Assessing Officer shall calculate the cost of construction and shall assess the amount of cess payable by the employer. The cost of construction shall be calculated on the basis one of the following:-

- (i) On the basis of balance sheet duly verified by the Chartered Accountant. If the duration of construction work/project exceeds one year, the balance sheet of every such year shall be provided by the employer. After completion of project/construction work the final cost of construction on the basis of balance sheet of every year duly verify the Chartered Accountant shall be provided by the employer.
- (ii) On the basis of notified rates for the estimated cost of construction fixed or different type and category of buildings. The final estimated cost of construction shall also include cost of Internal Development Charges (IDC), External Development Charges (EDC), Land development, Boundary Wall, Sanitary Work, Elevators, Air Conditioner and such other cost on the basis of quantum of the building or other construction work involved. The cost of construction shall include all expenditure incurred by an employer in connection with the building or other construction work.

Note:-The cost of construction which is higher of the above shall be taken in to account for the purpose of assessment of cess.

After assessment of cess, the Assessing Officer shall issue the assessment orders and the same will be generated automatically by computerized system. In case, the documents are not complete he will issue online notice to the employer for seeking additional information. The notice shall be automatically sent on the employer's e-mail by the system and SMS on his mobile number shall also be sent by the system.

In case, the employer complies with the observations pointed out by the Assessing Officers, the assessing officer shall scrutinize the same and found in order for assessment, the case will be transmitted for orders.

In case, the employer fails to submit the required information within the prescribed time, the assessing officer will proceed for assessment as per point no. (iii) of the part-II of this policy.

(v) Assessment Orders

The assessment orders will be generated on-line based upon the information filled in by the employer and scrutinized by the Assessing Officers. The Assessing Officers will digitally sign the Assessment orders, clearly specifying the date by which the cess shall be paid along with amount of cess to be paid by the employer. An order of the assessment will be seen and can be downloaded by any stake holders and will also be sent by the email / Registered Post to the Employer.

(vi) Payment of Cess

After the receipt of assessment orders, the cess amount as mentioned in the Assessment order shall be deposited online by the employer by the date as specified in the assessment orders to the Haryana Building and Other Construction Workers Welfare Board through any of the following means:-

- (i) Net Banking.
- (ii) E- Payment.
- (iii) Credit/Debit Card.

(vii) Recovery of Cess

If an employer does not pay the cess by the date as specified in the assessment order or pays less cess, the sums due on account of unpaid cess (including any interest or penalty) shall be recovered in the same manner as an arrear of land revenue by adopting the procedure as prescribed under Rule 13 of the Building and Other Construction Workers Welfare Cess Rules, 1998.

(viii) Appeal

Any employer aggrieved by an assessment order can appeal to the Appellant Authority in hard copy as mentioned under Rule 14 of the Building and Other Construction Workers Welfare Cess Rules, 1998. against such order within 3 months accompanied by following:-

- (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.

(ix) Audit

At the end of each year, 5 % of assessment cases will be selected randomly for audit by computerized system based upon the following pre-determined criteria at the Head Office:-

- The amount of cess.
- The category of buildings.

The Labour Department will conduct the audit of these cases every year.

PART –II**Assessment of Un-Registered Establishments****(i) Assessing Officers for un-registered establishments**

Joint Director, IS&H/Deputy Director, IS&H/ Assistant Director, IS&H will be the assessing officer for their respective jurisdiction as per pre-determined criteria. However, the Chief Inspector of Inspection of Building and Other Construction may alter the Assessing Officer or team of Assessing Officers to conduct the assessment irrespective of their jurisdiction.

(ii) Creation of Basic Information Performa (BIP) on the Portal

In case the employer does not furnish the requisite information as required for conducting the assessment, the Assessing Officer will create the BIP of the establishment on the departmental portal and will fill the available information in the BIP.

(iii) Notice of Assessment

After creating the BIP, the Assessing Officer will issue a 15 days' notice (offline by regd. post/by hand) to the employer for online application for the registration and also for furnishing the information in Form No.1 for

cess assessment. Along with this notice, he will also send the BIP details filled by him to the employer for updating of the same. If, the employer applies online by filling up all the details and submit all the documents, the case will be transmitted for order as specified in Part-I of this Policy.

If the employer fails to apply online for assessment or does not furnish the requisite information, the assessing officer will proceed to make the assessment on the basis of available records and other information incidental thereto. He may make such enquiry at the work site or from documentary evidence from other Govt. Departments or in any other manner as he may think fit for the purpose of estimating the cost of construction as accurately as possible. The assessing officer may take measurement and any other evidence considered absolutely necessary for reasonable assessment of cost of construction. After collecting the necessary information, the Assessing Officer will fill up the prescribed information on the portal.

(iv) Assessment Orders

The assessment orders will be generated on-line based upon the information filled by the Assessing Officers. The Assessing Officers will digitally sign the Assessment orders, clearly specifying the date by which the cess shall be paid by the employer along with the amount of cess to be paid. An order of the assessment will be seen and downloaded by any stake holders and will also be sent by the Registered Post /E-mail or any other medium to the Employer.

(v) Payment of Cess

After the receipt of assessment orders, the cess amount as mentioned in the Assessment order shall be deposited online by the employer within the date as specified in the assessment orders in the name of Secretary, Haryana Building and Other Construction Workers Welfare Board through any of following means:-

- (i) Net Banking.
- (ii) E- Payment.
- (iii) Credit/Debit Card.

(vi) Recovery of Cess

If an employer does not pay the cess within the date as specified in the assessment order or paid less cess, for the purpose of the recovery of sums due on account of unpaid cess (including any interest or penalty) shall be recovered in the same manner as an arrear of land revenue by adopting the procedure as prescribed under Rule 13 of Building and Other Construction Workers Welfare Cess Rules, 1998.

(vii) Appeal

If any employer aggrieved by an assessment order can appeal to the Appellant Authority in hard copy as mentioned under Rule 14 of Building and Other Construction Workers Welfare Cess Rules, 1998 against such order within 3 months accompanied by following:-

- (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.

(viii) Audit

At the end of each year, 5% of assessment cases will be selected randomly by computerized system based upon the following pre-determined criteria at the Head Office:-

- The amount of cess
- The category of buildings.

The Labour Department will conduct the audit of these cases every year.

PART -III**Complaint Based Assessments**

The Assessing Officer, or any Inspector, or a Trade Union or any person having come to know of any violation of an obligation to furnish return or furnishing of false information intentionally or willfully to evade or attempting to evade the payment of cess may make a complaint to the Chief Inspector of Inspection of Building & Other Construction or Assessing Officer or officers of the Board. The Chief Inspector of Inspection of Building & Other Construction suo moto or on the basis of such complaints, shall get the matter enquired and take legal action against the offender as per Part-II of this policy. While taking cognizance of such violation, the complainant shall also be associated.

DR. MAHAVIR SINGH,
Principal Secretary to Government Haryana,
Labour Department.