

OFFICE OF THE COMMISSIONER OF LABOUR, A.P: VIJAYAWADA

Memo.No.M/794 /2019

Modal Notice

Date: 11/2019

Sub: -The Building and Other Constuction Workers Welfare Cess Act, 1996 and the Building and other Construction Workers Welfare Cess Rules 1998 – Guidelines on Assessment and Collection of Cess – Modal Notice – submitted - Regarding.

Ref: - 1) G.O.Ms.No.111, LET&F Department (Lab-II) Department, dated 15-12-2009.  
2. G.O.Ms.No.112, LET& F Department (Lab-II) Department dated 15-12-2009  
3. G.O.Ms.No.75, LET&F Department (Lab-IV) Department, dated 24-08-2010.  
4. Orientation Programme conducted of Labour Department Officers on Cess Assessment and Cess collection from 4-11-2019 to 8-11-2019.  
5. This Office Circular Memo dated 12-11-2019

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The attention of all the Joint commissioners of Labour, Deputy Commissioners of Labour, Asst.Commissioners of Labour and Asst. Labour Officers in the State is invited to the subject cited. It is informed that as per instructions of Special commissioner of Labour, A.P. Vijayawada, on Orientation Program conducted from 4-11-2019 to 08-11-2019 with all the officers viz., Joint Commissioners of Labour, Deputy Commissioners of Labour, Asst.Commissioners of Labour and Asst. Labour Officers in the State was conducted at Vijayawada with the aim to familiarize the provisions of Building and Other Construction Workers Welfare Cess Act, 1996 and Rules 1998, Cess Assessment and Cess collection methods in order to enhance the collection of Cess. In view of the requisitions and suggestions made during the above Orientation Programme, the following Guidelines for effective assessment and collection of cess are issued.

It is further submitted that the Government of Andhra Pradesh, Labour, Employment, Training & Factories Department issued G.Os in the reference 1st and 2<sup>nd</sup> cited that the State Government Departments, Public Undertakings/Local Bodies which undertake construction works, and also the Authorities which are competent to approve plans for “ Building and Other Construction Work” viz (Municipal Administration & Urban Development Department (in respect of all Urban Local Bodies) (2) Panchayat Raj Department to collect 1% Cess at source. Further, government, through the reference 3<sup>rd</sup> reference cited above, has prescribed the Procedure for Assessment and Collection of Cess and communicated and a self Assessment was permitted in respect of all establishments.

In this regard copy of Guidelines, a modal Self Assessment Proforma to be submitted by the employer, Model notices are enclosed herewith for the use of officers.

In view of the above, all the Joint Commissioners of Labour, Deputy Commissioners of Labour, Asst. Commissioner of Labour and Asst. Labour Officers in the State who are notified authorities for Cess Assessment & Cess Collection Officers Under Section 5 and Rule 7 of AP BOCW Act, 1996 and APBOC Cess Act, 1998 are instructed to follow the said guidelines scrupulously and take up all steps to enhance collection of Cess.

**A.C.L / J.C.L**

**Encl: (All Modal Notices)**

**SPECIAL COMMISSIONER OF LABOUR**

**To  
All the Joint Commissioners of Labour  
Deputy Commissioners of labour  
Asst. Commissioners of Labour and  
Asst. Labour Officers in the State**

GOVERNMENT OF ANDHRA PRADESH  
LABOUR DEPARTMENT

**C.Cell.No.      2019**

**Model Notice**

**Dated:      11/2019**

Sub: -The Building and Other Construction Workers Cess Act, 1996 and the A.P Building and other Construction Workers Welfare Cess Rules 1996 Notice for Assessment of Cess under Section 5 and Rule 7 – Regarding.

Ref: -Circular Memo of Special commissioner of Labour, A.P.Vijayawada, dated 12-11-2019.

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It is informed by the inspector and Registering Officer under the Building and Other Construction Workers Act, 1996 and Cess Collector under the Building and Others Construction Workers Welfare Cess Act and Joint commissioners of Labour ..... vide above reference that on an inspection by him on                      it was found by him that you have taken up construction of ..... and issued letter to you ..... vide reference cited, to register your establishment under Section 7 of the Building and Other Construction Workers Act, 1996 and the A.P.Buildings and Other Construction Workers (RE&CS) Rules 1999 and that you failed to comply with. It is observed that you also failed to submit information of commencement of completion of the above construction work and the details of cost of construction etc., in form –I as required under Rule 6 of the Building and Other Construction Workers Welfare Cess Rules 1999.

You are directed to submit within 15 days from the date of receipt of this notice, the details of the above construction work including cost of construction and the cess paid if any, inform-I under Rule 6 of the Building and Other Construction Workers Welfare Cess Act and to appear before this

Assessing Officer on.....at                      pm in the Chambers of Joint Commissioner of Labour, O/o the Commissioner of Labour, A.P. Vijayawada along with relevant record like plant approved by the Vuda/Municipal corporation/Municipality/ Grampanchayat bills paid by you towards cost of construction of the said establishment since inception and other material papers available with you for assessment of Cess in respect of the above construction, failing which the assessing officer will proceed to make the assessment of cess on the basis of available record and information.

Assessing Officer under  
The Building and Other Construction workers  
Welfare Cess Act &  
Joint Commissioner of Labour

To  
The Chief Engineer

**Copy to**  
**All the Joint Commissioners of Labour**  
**Deputy Commissioners of labour**  
**Asst.Commissioners of Labour and**  
**Asst.Labour Officers in the State**

### General Guidelines for Assessing Officers:-

- Principles of natural justice shall be followed, which requires giving an opportunity of being heard, to the employer.
- Assessing Officer is a quasi-judicial authority. There are no parties with a dispute before him like a petitioner and a respondent but the Assessing Officer will decide the cess in exercise of the legal powers conferred on him and while doing so he shall use his discretion judiciously so that the rights of the employer are not violated while fixing his legal liability as to cess.
- The Assessing Officer can take assistance of his subordinate officers for the purpose of enquiry in the field and collection of documentary evidence from the relevant source in respect of the work for which cess is being assessed.
- The order of the Assessing Officer should contain the details of employer, details of establishment and the details of building or other construction work taken up by the employer as reflected from the material before the assessing officer and calculation of cost of construction and cess, cess paid if any, cess payable as balance or cess refundable if excess paid.
- The Assessing Officer shall issue a Notice to the employer, proposing to assess cess in respect of the building or other construction work taken up by the employer. The Assessing Officer shall have some prima facie material related to the building or other construction work in respect of which he proposes to assess cess, before initiating proceedings for assessment of cess. The material may be Form-I under Cess Rules, Registration Certificate under sec 7 of BOCW Act, notice of commencement of work under Sec 46 of the BOCW Act or a notice given by the inspector under BOCW Act for registration of establishment or calling for notice required to be furnished under sec 46 of BOCW Act or any documentary evidence/information secured from Govt/local body/PSU or an inspection report of the inspector under BOCW Act etc. (Ex. an inspector should have an inspection

report before filing prosecution or a claim application under Minimum Wages Act)

- In case of execution of work through contractor or contractors, the Assessing Officer may proceed to assess cess by issuing notices to the principal employer as well as contractor/contractors, as liability in such case is joint and several.
- Assessing officer may issue assessment order in a simple structured format in cases involving no disputed facts. In case of any disputed facts, the assessing order should pass a speaking order specifying the disputed facts and resolution of such dispute on the material available with the assessing officer.
- Penalty may be imposed if the employer fails to comply with the assessment order. Penalty should not be imposed directly in the assessment order. Separate proceedings shall be initiated proposing to impose penalty and the order imposing penalty should be a separate speaking order.
- In addition to cess due, interest shall also be ordered in the assessment order, payable for the period from the date of completion of 30 days from the date of completion of work or if the work continues beyond one year, on completion of one year.