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LABOUR & EMPLOYMENT DEPARTMENT

RESOLUTION

The 15th December 2008

The Government of India in the Ministry of Labour & Employment have enacted the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 with the objective of regulating the Employment and Conditions of Service of the Building and Other Construction Workers and to provide their safety, health and welfare measures. The Government of Orissa with a view to enforce the provisions of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 have formulated rules namely the Orissa Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2002 and this has been published in the *Orissa Gazette* vide Government Notification No. 9174-LE., dated the 2nd August 2002.

2. The Central Government have enacted a legislation namely the Building and Other Construction Workers Welfare Cess Act, 1996 and framed Rules there under, which provides for the levy and collection of Cess @ not less than 1% and not more than 2% on the cost of construction incurred by employers / builders under the Building and Other Construction Workers (RE&CS) Act, 1996 with a view to augmenting the resources of the Building and Other Construction Workers Welfare Board constituted under the Act. The cost of the construction shall exclude the cost of land and any compensation paid or payable to worker or his / her kin under the Workmen Compensation Act, 1923.

3. In accordance with the provisions under section 3(1) of the Building and Other Construction Workers Welfare Cess Act, 1996, the State Government have been pleased

to order for collection of Cess @ 1% of the cost of construction incurred by an employer / builder which shall exclude the cost of land and any other compensation paid or payable to a worker or his kin under the Workmen Compensation Act, 1923.

4. The Building and Other Construction Work as defined under section 2(1)(d) of the Act, is reproduced hereunder,

2(1)(d) – “Building and Other Construction Work” means the construction, alteration, repairs, maintenance or demolition, of or, in relation to, buildings, streets, roads, railways, tram ways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works, generation, transmission and distribution of water), oil and gas installations, electric lines, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, water courses, 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 (63 of 1948) or the mines Act, 1952 (35 of 1952) apply.”

5. The Building & Other Construction Workers (RE&CS) Act, 1996 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 Government in respect of such establishment or employer of such establishment shall have to collect and pay the cess amount to the Orissa Building and Other Construction Workers Welfare Board in the manner as laid down under the Building and Other Construction Workers (RE&CS) Act, 1996 and its rules thereunder.

6. As per the provisions of the Building and Other Construction Workers Welfare Cess Act, 1996, the following persons are liable to pay the Cess:—

- (a) In respect of the Government Departments, public sector undertakings and other Government agencies, such as BDA, CDA etc., Railway Authorities, Air port 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.

- (b) In respect of the Local Authority, where work is carried out directly or through a contractor, the Chief Executive Officer of that establishment.
- (c) In respect of the individual residential house, the owner himself.
- (d) In respect of group housing, big mahals, hospitals and apartments, the builders or the contractors as the case may be.

7. Hence in the 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 Government Departmental agencies/ bodies carrying out any buildings or other construction works which are covered under section 2(1)(d) of the Building and Other Construction Workers (RE&CS) Act, 1996 shall pay 1% of the amount of the cost approved as per the tender notification. This amount will be deducted from the bill at the time of making payment to the contractors and such amount shall be remitted by way of account payee cheque in favour of the Orissa Building and Other Construction Workers Welfare Board within 30 days of making payment alongwith a forwarding letter addressed to the Secretary-cum-Chief Executive Officer, the Orissa Building and Other Construction Workers Welfare Board, Office of the Labour Commissioner, Orissa, Bhubaneswar.
- (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 / organization by account payee cheque drawn in favour of the Orissa Building and Other Construction Workers Welfare Board by the Government Departments, Public Sector Undertakings and other Governmental bodies.
- (c) Where the approval of the construction work by Local Authority that is Urban Local Bodies or Rural Local Bodies, is required it shall obtain estimated cost of the construction alongwith building plans, which are submitted for approval by

