

Chapter 7
Collection and deposit of Cess

7 Collection and deposit of Cess

As per the notification (October, 1996) of GoI, cess was to be levied and collected at the rate of one *per cent* of the cost of construction. As per Rule 3 of the Cess Rules, 1998, cess was to be deducted at source in relation to a building and other construction work, of a government or of a public sector undertaking. The local authority concerned was to collect the cess, in advance, where construction works were to be approved by it.

Further, as per Rule 5 of the Cess Rules, proceeds of the cess were to be transferred to the Board, under the accounting procedures of the State, within 30 days of their collection.

7.1 Non-transfer of Cess collected

GoJ started (December, 2008) collection of cess, after creating a Revenue Receipt head, under “Major Head 0230 - Minor Head 106 (Contract Labour (Regulation & Abolition) Act, 1970) - Subheads 02 and 03 (Receipt of Cess under BOCW Cess Act). Government offices transferred the cess amounts, deducted at source, to this Receipt Head, either through book transfers, or through direct remittances.

Subsequently, GoJ approved (March 2010) the proposal of the Board, to deposit the amount of cess, deducted by different offices at source, directly into the bank account of the Board. Accordingly, a bank account was opened and the Labour, Employment, Training and Skill Development Department, requested (March 2011) all departments, to deposit the amount of the cess, directly in the designated bank account.

However, as of March 2022, cess was being deposited through both routes, *i.e.* through book transfers by the works divisions⁹¹ and by direct deposits into the said bank account of the Board, by other offices. The position regarding the cess amounts collected under the designated Revenue Receipt Head and the outstanding amounts to be transferred to the Board, is shown in **Table 7.1**.

⁹¹ As per the State Public Works Accounts Code.

Table 7.1: Status of cess collected and transferred to the Board*(₹ in crore)*

Financial Year	Amount deposited in the Revenue Receipt Head*	Amount pertaining to the Contract Labour Act	Amount pertaining to the BOCW Act	Amount transferred to the Board	Outstanding amount of cess to be transferred
Up to 31 March 2017	312.90	4.25	308.64	Nil	308.64
2017-18	80.77	0.05	80.72	Nil	80.72
2018-19	79.81	0.26	79.55	Nil	79.55
2019-20	76.70	0.33	76.36	Nil	76.36
2020-21	59.15	0.30	58.85	Nil	58.85
2021-22	54.86	0.31	54.55	Nil	54.55
Total	664.19	5.50	658.67	Nil	658.67

(*Source: Departmental data and the Finance Accounts of the respective years)

Table 7.1 shows that the State Government had not transferred the cess amount of ₹ 658.67 crore, to the Board. The Board raised (September 2021) a demand of ₹ 468.90 crore, in regard to the cess collected up to FY 2018-19, from GoJ. GoJ agreed to (October 2021) release the cess amount in three instalments, in the next three financial years, commencing from FY 2022-23 and released ₹ 154 crore to the Board. The remaining amount of ₹ 504.67 crore, was yet to be transferred to the Board (as of March 2023). Non-transfer of cess to the Board, by GoJ, had also been highlighted in **Paragraph 4.1** of the State Finances Audit Report of the Comptroller and Auditor General of India for the year ended 31 March 2022.

In reply, the Department stated (October 2023) that, out of the total collection of cess amount of ₹ 468.91 crore by the Government of Jharkhand through book transfer up to 31 March 2019, an amount of ₹ 308 crore has been received by the Board. The balance amount of ₹ 160.91 crore is yet to be received. In addition, the matter regarding transfer of the balance amount of cess collected for the period from 2019-20 to 2021-22 has been taken up by the Chairman, BOCW Board, with the Department of Finance, Government of Jharkhand.

The fact, however, remains that the Board was yet to receive (as of October 2023) the balance amount of ₹ 350.67 crore of cess collected till 2021-22 from GoJ. In addition, the Board had lost the opportunity to invest the surplus funds in nationalised banks or securities, as permitted under Rule 294 of the Jharkhand Rules.

7.2 Collection and deposit of cess by Local Bodies

Audit scrutinised records related to building plans, approved during FYs 2017-18 to 2021-22, of eight building plan approving Urban Local Bodies (ULBs)⁹², in the four test-checked districts. In addition, information was collected from the local bodies of other districts, through the Board. Audit findings, in this regard, are discussed in the following paragraphs.

7.2.1 Non-realisation of cess

Rule 4 (4) of the Cess Rules provides that applications for approval of building plans are to be submitted to the local authorities, with crossed demand draft, in favour of the BOCW Board, payable at the station at which the Board is located.

Audit noticed that the Ranchi Regional Development Authority (RRDA), Ranchi, had accepted cheques of commercial banks, including post-dated cheques⁹³, against collection of cess, in its own name. It was seen that 53 such post-dated cheques, for an amount of ₹ 28.79 lakh (**Appendix 7.1**), had not been honoured by the concerned banks and could not be realised.

Non-insistence, by RRDA, Ranchi, on submission of crossed demand drafts, in favour of the Board, led to non-realisation of cess, amounting to ₹ 28.79 lakh.

7.2.2 Non-deposit of cess by local bodies

Rule 5 (3) of the Cess Rules mandates that the cess collecting authorities deposit the collected amount of cess with the Board, within 30 days.

Audit noticed, in this regard, that:

- Four local bodies⁹⁴ had collected cess amounting to ₹ 13.19 crore, during FYs 2017-18 to 2021-22, against approval of building plans. However, they had not deposited the amount of cess, with the Board, as of December 2022.
- Rule 4 (3) of the Cess Rules provides that, 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. Accordingly, five ULBs had undertaken construction activities and collected cess, amounting to ₹ 24.18 crore, from the payment bills of vendors/contractors, during FYs 2017-18 to 2021-22. However, they had not deposited the amount into the account of the Board, as of March 2022 (**Appendix 7.2**).

⁹² (1) Ranchi Municipal Corporation (2) Ranchi Regional Development Authority, (3) Deoghar Municipal Corporation (4) Dhanbad Municipal Corporation (5) Jamshedpur Notified Area Committee (6) Jugsalai Nagar Parishad, Jamshedpur (7) Chas Municipal Corporation, Bokaro (8) Mango Municipal Corporation, Jamshedpur.

⁹³ Post-dated cheques were accepted to realise labour cess as and when plans were approved.

⁹⁴ Ranchi Regional Development Authority, Ranchi: ₹ 6.60 crore, Deoghar Municipal Corporation: ₹ 0.40 crore, Chas Municipal Corporation, Bokaro: ₹ 1.57 crore and Dhanbad Municipal Corporation: ₹ 4.62 crore.

- Twenty-six local bodies had collected (FYs 2017-18 to 2021-22) cess, amounting to ₹ 10.33 lakh (**Appendix 7.3**), on construction activities undertaken by them. However, they had retained the amount with them, as of March 2022. They stated that the amounts had not been deposited, in the absence of information and details of the bank account of the Board.
- The Board had not developed any mechanism for obtaining periodic reports and returns of the cess collected by the cess collecting authorities, even though MWS&AP had recommended that the Board may co-ordinate with Local Bodies, for the assessment, collection and deposit of cess.

Thus, local bodies had not deposited collected cess, amounting to ₹ 37.47 crore, in the account of the Board, even though it was required to have been deposited within 30 days of collection.

While accepting the facts, the Department stated (October 2023) that the Chairman, BOCW Board, has requested the Secretary/Principal Secretary, Urban Development & Housing Department and Rural Development Department, Government of Jharkhand, to issue directions to all its sub-ordinate offices for collection of cess in accordance with the provision of the Building and Other Construction Workers Welfare Cess Act, 1998 and the Cess Rules, while approving the building plan and ensure its deposit into the bank account of the Board, within a period of thirty days. Also, efforts are being made to coordinate with the plan approving authority for periodic supply of information with regards to details of the area/location of the approved plan and the amount of cess deposited into the bank account of the Board.

Recommendation 12: State Government may ensure transfer of the collected amount of cess to the Board. The Board may co-ordinate with the Local Bodies, to ensure timely deposit of the amount of cess collected, to its account.

7.3 Non-recovery of cess

Section 10 of the Cess Act provides that the recovery of amounts due under the Act, including any interest or penalty, from an employer, may be made in the same manner, as an arrear of land revenue. Further, Rule 13 of the Cess Rules provides that, for the purpose of recovery of sums due on account of unpaid cess, interest or penalty, the assessing officer is to 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 the amount, as an arrear of land revenue⁹⁵.


Audit noticed that the Mining Area Development Authority, Dhanbad, had intimated (October 2013 to July 2018) the Assessing Officer (the Assistant Labour Commissioner, Dhanbad), that 16 applicants had deposited ₹ 25.16 lakh,

⁹⁵ Sections 4 and 6 of the Public Demand Recovery Act, 1913, lay down the process for recovery of public demand (arrears of land revenue).

as partial cess, at the time of approval of building plans, against the total payable cess of ₹ 100.64 lakh. The Assessing Officer had issued notices to the concerned applicants (November 2014 to May 2019), to deposit the remaining amount of cess of ₹ 75.48 lakh. Ultimately, the Assessing Officer had issued provisional assessment orders, in each case, with total outstanding demand of ₹ 75.48 lakh (**Appendix 7.4**) and filed certificate cases (September 2015 to June 2019) with the District Certificate Officer, Dhanbad, against each applicant, for recovery of the outstanding cess. However, the Assessing Officer did not follow-up the certificate proceedings and the dues were yet to be recovered, as of December 2022, after a lapse of over three to eight years.


While accepting the facts, the Department stated (October 2023) that the Chairman, BOCW Board, has issued directions to the Assistant Labour Commissioner, Dhanbad to examine the case and report to the Board.

Ranchi
The 30 September 2024


(INDU AGRAWAL)
Principal Accountant General (Audit),
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Countersigned

New Delhi
The 23 October 2024


(GIRISH CHANDRA MURMU)
Comptroller and Auditor General of India

