

SECTION - A

**REALISATION OF
LABOUR CESS**

CHAPTER II

Registration of Establishments

and

Assessment of Labour Cess

Chapter II: Registration of Establishments and Assessment of Labour Cess

Registration of Establishments was sluggish due to inadequate efforts for registration and deficiencies in maintaining database of cess remitting agencies. Lack of uniformity in estimating the cost of construction of buildings while issuing building permits by Local Bodies adversely impacted the assessment of cess.

2.1 Introduction

As per BOCW Act, 1996, all Establishments engaging more than 10 workers in the preceding 12 months are to be registered and every Employer shall apply for registration within a period of 60 days from the date of commencement of work. Registration of Establishments is a crucial factor for ascertaining the details of construction works for which cess must be assessed and collected by Local Bodies and other Agencies. Establishments, including the Employers, are registered through “Labour Online” web portal maintained by the Labour Department. The Senior Labour Inspectors/Labour Inspectors at the Taluk level are the registering officers.

As per section 2 (j) of BOCW Act, Establishments are construction sites belonging to, or under the control of Government, any body, corporate or firm, an individual or association or other body of individuals which or who employs building workers in any building or other construction work. A building constructed by an individual for his own residence, the total cost of construction of which does not exceed ₹10 lakh is exempted.

The assessment, collection and remittance of Labour Cess is made under the provisions of BOCW Act, 1996 and Karnataka BOCW Rules, 2006.

2.2 Non-monitoring of registration of establishments

Section 7 of the Building and Other Construction Workers’ (Regulation of Employment and Conditions of Service) Act, 1996, in conjunction with Rule 15 of the Building and Other Construction Workers’ (Regulation of Employment and Conditions of Service) (Karnataka) Rules, 1996, stipulates the process for registering building or other construction work carried out by an establishment. The establishment is required to apply using Form I¹⁰ for registration to the Registering Authority, accompanied by the prescribed fee. Upon approval, the registered establishment receives a Certificate of Registration in Form II¹¹.

¹⁰ Form I is an application for Registration of Establishments employing building workers, submitted by the employer/construction agency.

¹¹ Form II is a certificate of Registration of Establishments issued by Labour Department.

Rule 17 (3) mandates that every employer before 30 days of commencement or completion of construction work shall submit Form IV¹² to the Inspector having jurisdiction for the area. As per Rule 19 (2), the amount collected for Registration *etc.*, shall be credited to the account of Commissioner of Labour, Bengaluru. Registration of establishments, Certificate of Registration on commencement and completion was issued by the Labour Inspectors of Department of Labour through “Labour Online” portal. The details of advance cess paid, and the estimated cost of construction were also collected in the portal.

Audit observed that the registration of establishments for the Board was done through “Labour Online” portal and the Certificate of Registration issued to the establishments. As the Board did not have the details of Form I, Form II and Form IV *etc.*, relating to registration, Audit obtained the details of Form I from the Labour Commissioner’s office. Form II and Form IV details were not furnished. Audit observed that Labour Commissioner’s office approved 12,870 applications relating to establishment registration and collected ₹1.49 crore as fees.

However, Audit observed lack of effective coordination between the Labour Department and the Board in sharing registration details. Consequently, the details of number of establishments and the cess likely to be collected from them were not collected by the Board from the Department prior to preparation of the budget and expenditure for identifying and implementing the schemes.

The Government stated (August 2024) that action would be taken to obtain the details from the concerned departments and keep on record in future.

2.3 Short/Non-registration of Establishments and Employers

Audit obtained the building plans sanctioned by the local authority, the number of agreements for works entered by work executing agencies like Public Works Department (PWD), Urban Local Body (ULB) *etc.*, in the sampled districts for test check. This data was compared with the number of establishments registered in Form I by the Registering Officer of the Board. It was observed that there were shortfalls in registration of establishments during 2018-19 to 2022-23 in all the test checked Offices as given in **Table 2.1**.

¹² Form IV is a Notice of commencement/completion of building and other construction work to be submitted by the employer.

Table 2.1: Shortfall in registration of establishments during 2018-2023

Sl. No.	Details of Labour Office	Building Plans Sanctioned	Work Agreements executed	Total	Registered as per LO	Shortfall
1	Labour Office, Mysuru	1,277	1,674	2,951	38	2,913
2	Labour Office, Davanagere	5,188	1,311	6,499	4	6,495
3	Labour Office-1, Hubballi	9,242	3,212	12,454	14	12,440
4	Labour Office, Bidar	879	5,404	6,283	19	6,264
	Total	16,586	11,601	28,187	75	28,112

Source: Information obtained from Local Bodies, Public Works Department and the Labour Officers

Considering the minimum fees of ₹2,000 prescribed for Registration, the total registration fee amounting to ₹5.62 crore¹³ was not collected in respect of these unregistered works. In respect of works executed through Government Department, Public Sector Undertakings and other governmental agencies/bodies carrying out any building or other construction work through a contractor, one *per cent* of the amount of the cost approved from the bill at the time of making payment to the contractor shall be deducted. In respect of construction work by local authority, the local authority shall obtain estimated cost of the construction along with the building plans which are submitted for approval and shall collect one *per cent* upfront on the estimated cost. The cess amount collected was required to be remitted to the Board account.

However, as these works/establishments were not registered, the details of cess remitted by them were not available either with Labour Department or the Board.

Further, the Bruhat Bengaluru Mahanagara Palike (BBMP) issued 38,434 building licenses during the years 2016-17 to 2022-23. However, the total number of establishments registered in “Labour Online” portal in Bengaluru since the enactment of the Act in 2007 was 5,022 only (13.07 *per cent*). This shows that the registration of the establishments was not carried out for all the building works. The Board did not obtain the details of registration periodically from the Department. It was also observed that there was no mechanism in place to ascertain that the building plans sanctioned by the local bodies were registered with the Labour Department.

Besides, the Audit observed that 45,495 building contractors carrying on business in Karnataka were registered in the Goods and Services Tax portal as at the end of March 2023. Therefore, it is clear that the number of registrations in the “Labour Online” portal is far less than the actual numbers.

Thus, Audit observed that inability to ensure the registration of establishments and employers led to significant shortfalls in their registration. This, in turn,

¹³ ₹5,62,22,000/- (28,112 x ₹2,000).

hindered effective data sharing with the Board, affecting the monitoring and assessment of cess related to these establishments and employers. As a result, the possibility of establishments and employers evading cess assessment and remittance could not be ruled out.

The State Government stated (August 2024) that the concerned Labour officers were addressed to furnish the details of registration of establishments.

Recommendation 1: The State Government should initiate efforts to strengthen the mechanism for registration of all the establishments in the State.

2.4 Lack of comprehensiveness in database of cess assessment, collection and remittance

As discussed in detail in **Chapter III**, the Local Bodies, and other agencies, responsible for collection and remittance of the cess amount, did not furnish the details to enable the Board to reconcile whether the cess assessed and collected were remitted correctly. Hence, Audit found that the Board did not have a comprehensive record/database of cess assessment, collection, and remittances.

Thus, the Board did not have a system to watch the collection and remittance of Labour cess by the departments/agencies through periodical reports/data on the details of constructions permitted/carried out by them.

The State Government stated (August 2024) that the requisite information is awaited from the Labour Commissioner's office.

2.5 Lack of system for assessment of construction cost - method for assessment of Cess not prescribed

Rule 7 of Building and Other Construction Workers Welfare Cess Rules, 1998 specifies that on receipt of information in Form I from the employer, the Assessing Officer (Labour Officer) shall make an order of assessment within a period of six months from the date of receipt of such information. The Assessment order would specify the amount of cess due, cess already paid by the employer or deducted at source and the balance amount payable.

Audit observed that the Board had not established any methodology for assessing officers to calculate the cost of construction. Consequently, officers resorted to using rates determined by the Central Valuation Committee of the Stamps and Registration Department, intended for guidance value calculations during registration processes. The rates prescribed in the year 2017 were applied to evaluate construction projects completed during the period 2021-22, resulting in lower estimation of construction costs and correspondingly lower cess levies. For instance, in Labour Office-1, Bengaluru, 15 out of 34 test checked cases, the guidance values were significantly lower by ₹35.85 lakh compared to establishments' declared values.

Advance collection of cess is made based on the estimated cost of construction at the prevailing rates while sanctioning the building plans by local authorities and the plan is valid for a period of two years. Therefore, to arrive at the reasonable cost of construction, an assessment methodology should be prescribed by the Boards.

The Government stated (August 2024) that the Board had now initiated action to engage a technically qualified person to guide and also fix up the methodology for assessment of cost of construction.

Recommendation 2: The State Government should ensure that guidelines are framed for estimation of the construction cost of buildings for which building permits are approved.

2.6 Shortfall in conducting assessments

The advance cess collected at the time of building plan approval was based on the estimated cost at the prevailing rates. As per Rule 7 of the Building and Other Construction Worker Welfare Cess Rules, the assessing officer shall make an order of assessment within six months of receipt of information in Form I.

Audit observed significant shortcomings in the assessment process of establishments regarding cess payment. The establishments did not furnish information in Form I and the orders of assessment were not issued in numerous cases. Out of 745 Form I submissions in the test-checked districts, only 698 cases received orders of assessment. This indicates that 47 registered constructions were not assessed for the cess payable by them. Thus, despite submission of Form I, action for assessing and demanding cess was not carried out for these cases.

Further, Audit obtained the details of building plans sanctioned by the urban local bodies, works executed by departments/boards from the respective agencies in the selected districts and compared with the number of works registered with the labour department and the assessments carried out by the Labour Officers. The details are given in **Table 2.2**.

Table 2.2: Building Plans Sanctioned – Registered – Assessed

Sl. No.	Name of the ULB	Building Permits Sanctioned	Establishments Registered	% of coverage (Col. 3 vs Col. 4)	Assessment Orders Passed	% of coverage (Col. 4 vs Col. 6)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Belagavi	3,989	772	19.35	640	82.90
2	Mysuru	1,277	324	25.37	38	11.73
3	Bidar	832	26	3.12	2	7.69
4	Hubli	9,242	138	1.49	14	10.14
5	Davanagare	5,188	136	2.62	4	2.94
6	BBMP	30,661	5,022	16.38	62	1.23

Source: Building plans sanctioned by ULBs / BBMP, Registration as per Karmika portal¹⁴, Assessment details furnished by respective labour offices

From the above table, it can be seen that there is a shortfall in the registration of establishments and assessment orders issued by the Labour Officers compared to the building permits sanctioned. For instance, the coverage of registered establishments in the six ULBs ranged between 1.49 and 25.37 *per cent*, the coverage being the lowest in Hubli, which was only 1.49 *per cent*. Further, the assessment orders passed ranged between 1.23 and 82.90 *per cent*, with BBMP being the lowest at 1.23 *per cent*.

The information with the local bodies was not utilised by the Labour Officers in assessing the cess payable. This impacts the cess collection and revenue of the Board. Effective coordination with the local bodies and action thereon would make the cess collection efficient and effective.

The Government stated (August 2024) that the Assessing Officers would be intimated to assess all the cases and furnish reports to the Board.

Conclusion

The Board did not maintain a comprehensive database of cess assessing, collecting, and remitting agencies and thus lacked a system to ascertain the quantum and timely assessment of labour cess. Audit found significant shortcomings in registering establishments/employers by the Labour Department in Karnataka, which adversely impacted the scope for data sharing with the Board, thereby hampering the assessment of Labour cess. Audit observed significant shortfall in conducting assessments and the Local Bodies/Authorities responsible for collection of Labour Cess at the time of approving the building permits did not have a system to ensure correctness of the estimated value of the construction.

¹⁴ Karmika Portal was used by the Board for registration of beneficiaries. This Portal is different from the Labour Online Portal which is being used by the Labour Department for registration of establishments. The Portal, however, does not capture details of Building Plans which are available only with the respective ULBs/BBMP.