

## CHAPTER- V: RESOURCES

### 5.1 Collection of Cess by BOCW Welfare Board

Section 3 of the BOCW Act, 1996, provides for the levy and collection of cess for the purposes of the Act at such rate not exceeding two *per cent* but not less than one *per cent* of the cost of construction. The Ministry of Labour, GoI, notified vide notification (September 1996) that the cess shall be deducted at the rate of one *per cent* of the cost of construction incurred by the employer. This Section enables the deduction of cess at source in relation to building or other construction work of a Government or a Public Sector Undertaking or advance collection through a local authority at the time of granting approval of Building Permission. Details of Cess collected during 2017-22 are shown in Table 5.1.

**Table 5.1: Details of Cess Collected by BOCW Welfare Board during 2017-18 to 2021-22**

(₹ in crore)

Year	Selected Districts					Other District	Total Cess
	Bilaspur	Bastar	Janjgir-Champa	Raigarh	Raipur		
2017-18	8.98	3.34	3.87	8.03	42.56	111.61	178.39
2018-19	7.62	8.55	3.11	8.09	36.89	135.45	199.71
2019-20	5.78	3.04	0.79	7.37	28.94	117.70	163.62
2020-21	6.64	11.20	0.47	7.94	23.06	123.03	172.34
2021-22	8.41	11.62	2.29	5.28	25.33	138.14	191.07
<b>Total</b>	<b>37.43</b>	<b>37.75</b>	<b>10.53</b>	<b>36.71</b>	<b>156.78</b>	<b>625.93</b>	<b>905.13</b>

(Source: information provided by the BOCW Welfare Board)

Due to non-assessment of cess by the cess assessing authority following irregularities have been noticed:

#### 5.1.1 Non-deduction of cess of ₹2.82 crore

During test check of records, it was noticed that one out of 32 works divisions, two out of five Municipal Corporations and one out of five town and country planning offices, failed to deduct cess totaling ₹ 2.82 crore for the year 2017-22. The reason for non-deduction of cess by each department is detailed below:

- Office of the EE, MMGSY, Raigarh failed to deduct cess of ₹ 1.16 lakh from the escalation bills of the Contractor.
- Office of the Commissioner, Raipur Municipal Corporation, had failed to deduct cess of ₹ 269.28 lakh from the cost of internal development activities (such as construction of roads, water tank, guard room, boundary wall etc) carried out by the Colonisers<sup>1</sup> before the approval of projects.

<sup>1</sup> Coloniser: Any person or institution who intends to take up the work of establishment of the colony.

- Office of the Commissioner, Jagdalpur Municipal Corporation, had failed to deduct cess of ₹ 10.11 lakh from the cost of internal development activities (such as construction of roads, water tank, guard room, boundary wall etc) carried out by the Colonisers before the approval of projects.
- Office of the Assistant Director, Town and Country Planning, Janjgir-Champa, had failed to deduct cess of ₹ 1.22 lakh from 11 individuals from the estimated cost of constructions before the approval of building plans.

The Government assured (April 2024) that correspondence has been made with the concerning departments regarding these irregularities. Further, it has also been assured that if the departments fail to deposit the pending cess, then the cess assessing authority will be directed to collect the cess in the similar way of revenue collection.

### **5.1.2 Transfer of cess**

As per Rule 5 of the Building and Other Construction Worker's Welfare Cess Rules, 1998, the proceeds of the cess collected under Rule 4 shall be transferred by such Government Offices, Public Sector Undertakings, Local Authorities and cess collectors, to the BOCW Welfare Board. The cess amount collected should be transferred to the Board within thirty days of its collection.

#### **5.1.2 (a) Non-transfer of Cess of ₹ 3.38 crore**

During test check of records in test checked units, it was noticed that in one out of 32 works divisions and two out of five Municipal Corporations, cess of ₹ 3.38 crore collected during the period April 2017 to March 2022 was not transferred to BOCW Welfare Board as of March 2022 as shown in **Table 5.2**.

**Table 5.2: Details of Non- transfer of BOCW Welfare Cess**

Sl. No.	Name of the Divisions	Amount (in ₹)
1	Executive Engineer, WRD, Survey and Barrage Construction Division 1, Raigarh	16,89,639
2	Commissioner, Nagar Palik Nigam, Raigarh	230,47,876
3	Commissioner, Nagar Palik Nigam, Jagdalpur, Bastar	90,14,462
	<b>Total</b>	<b>337,51,977</b>

The Government assured (April 2024) that correspondence has been made with concerning departments for collection of pending cess. Presently, Raipur Municipal Corporation deposited the pending cess. The Government also stated that cess assessing authority has been directed to collect pending cess in the same way of revenue collection.

#### **5.1.2 (b) Delayed transfer of cess**

Section 8 of BOCW Welfare Cess Act, 1996 also stipulates that if any employer fails to pay any amount of cess payable under section 3 within the time specified in the order of assessment, such employer shall be liable to pay interest on the amount to be paid at the rate of two *per cent* for every month or part of a month

comprised in the period from the date on which such payment is due, till such amount is actually paid.

During test check of records, it was noticed that in eight out of 32 works divisions and in one out of five Municipal Corporation, there was delay ranging from one to 120 months in the collection and transfer of cess amounting to ₹ 8.09 crore to BOCW Welfare Board as shown in **Table 5.3**.

**Table 5.3: Details of delay in transfer of BOCW Welfare Cess to BOCW Welfare Board**

Sl. No.	Name of the Divisions	Amount in ₹	Delay in months
1	Executive Engineer, PWD, B&R Division, Raigarh	17,03,392	25 to 35 months
2	Executive Engineer, PHED, Civil Division, Raigarh	15,99,072	1 to 7 months
3	Executive Engineer, PWD, Bridge Division, Raigarh	63,75,103	1 to 96 months
4	Executive Engineer, PWD, Bridge Division, Raipur	192,41,046	1 to 90 months
5	Executive Engineer, PHED, Civil Division, Raipur	8,68,473	14 to 62 months
6	Executive Engineer, PHED Civil Division, Bilaspur	8,75,569	1 to 8 months
7	Executive Engineer, PWD, North Bastar Division 1, Jagdalpur	8,67,144	71 to 120 months
8	Executive Engineer, PWD, Bridge Division, Jagdalpur, Bastar	3,66,874	34 to 46 months
9	Commissioner, Nagar Palik Nigam, Raipur	489,87,414	32 to 44 months
	<b>Total</b>	<b>808,84,087</b>	

Further, office of the Commissioner, Nagar Palik Nigam, Raipur collected advance cess of ₹ 4.91 crore by granting building permission during the year 2021-22. On this being pointed out in Audit, the office had deposited (March 2024) pending cess of ₹ 4.90 crore with a delay ranging from 32 to 44 months.

The State Government stated (April 2024) that correspondence has been made with the concerned departments regarding these irregularities.

**5.1.2 (c) *Non receipt of ₹ 3.98 crore against the cheques received from different bodies/departments***

During scrutiny of records of BOCW Welfare Board, it was observed that a total of 326 cheques pertaining to cess amount of ₹ 3.98 crore were lapsed and could not be encashed in the Bank since 2019 leading to non-receipt of funds of ₹ 3.98 crore by BOCW Welfare Board.

The State Government stated (April 2024) that efforts are being made to get new cheques from concerning departments to recover the balance amount.

## **5.2 Conclusion**

There were instances of non-deduction of cess of ₹ 2.82 crore, non-transfer of cess of ₹ 3.38 crore by the cess deducting/collecting authorities in the State. Audit noticed transfer of cess of ₹ 8.09 crore with a delay ranging from one month to 120 months by the test checked cess deducting/collecting authorities viz., Works departments, Urban Local Bodies and Town and Country Planning.

## **5.3 Recommendations**

- The BOCW Welfare Board should co-ordinate with the cess deducting/collecting authorities for timely collection and transfer of cess as its delay results in loss of interest to the Board.
- Suitable provision for levy of penalty for non-collection, delayed collection and non-transfer of cess should be made to the extant rules.