

**Chapter 3**

**Assessment, Collection and Remittance of  
Cess**



## Chapter 3

### Assessment, collection and remittance of Cess

- Section 3 of the Building and Other Construction Workers' Welfare Cess Act (Cess Act), 1996 provides for mandatory levy and collection of cess on the cost of construction and as per notification issued (September 1996) by GoI, cess shall be levied at one *per cent* of the cost of construction incurred by an employer which will be paid to the Board. As of March 2023, the Board had accumulated funds of ₹ 3,579.05 crore.
- There was huge difference in figures of cess amount collected as per records of cess collectors, district records and the Board. The difference in figures of the cess as per District records and as per the Board for four years amounted to ₹ 204.95 crore. The differences were not found reconciled.
- The Department did not maintain a reconciled database of Cess assessed, collected and remitted and thus lacked a system to ascertain the quantum of Cess due and its timely collection. Cases of incorrect assessment, short/deposit/realisation of cess were observed.

An order was passed by the Office of Labour Commissioner, GNCTD on 16 August 2005 directing all Government Departments, Public Undertakings and other Government Bodies to remit one *per cent* of the amount of construction cost approved as per the tender notification from the bills as Labour Cess at the time of making payment to the contractors by way of A/c Payee Cheque, in favour of the Delhi Building and Other Construction Workers Welfare Board (Board) within 30 days of making such payment. Later, the Board issued (November 2017) instructions to transfer the collected cess directly through RTGS/NEFT into its bank account of concerned district. Additionally, registration fee of ₹ 5 and annual membership fee of ₹ 20 from registered workers were to be collected.

It was seen in Audit that Cess was collected by the Cess Collectors (Labour Officers and Inspecting Officers of the Labour Department) in the District offices through cheques, demand drafts and RTGS/NEFT in the bank account of the Board in each district and also online mode through a link provided for this purpose on the websites of Labour Department and the Board. The cheques and drafts are handed over to staff of the Board in the District by the Cess Collectors who in turn deposit the same in the account of the Board. Cess in respect of private constructions is collected by the local authority (Municipal Corporation of Delhi, New Delhi Municipal Council and Delhi Development Authority) at the time of approval of building plans and remitted to Board whereas, government departments, public undertakings and other government

bodies carrying out any construction work are required to deduct labour cess from the contractors' bills and remit the same to the Board.

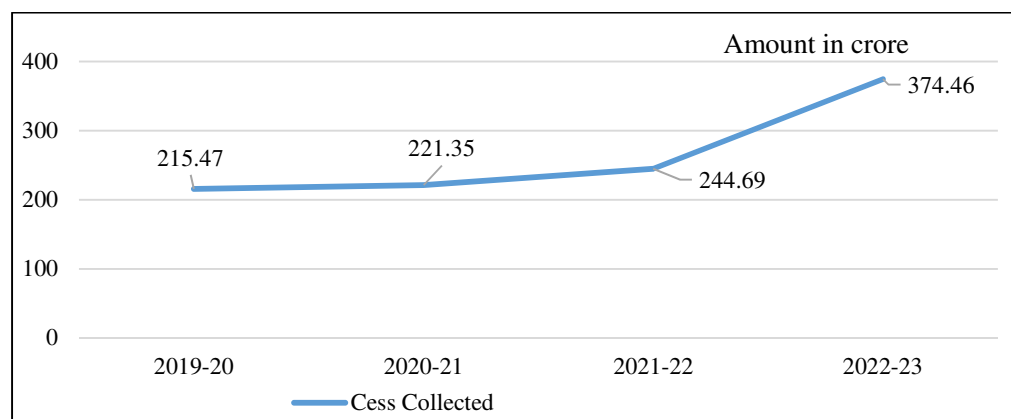
Assessment of cess due in respect of cess deposited by establishments is done by the jurisdictional Dy. Labour Commissioners of the Labour Department who have been appointed as Assessing Officers.

Cess collected by the Board during the years from 2019-20 to 2022-23 is as per **Table 3.1**.

**Table 3.1: Details of cess collected**

(₹ in crore)	
Year	Cess collected
2019-20	215.47
2020-21	221.35
2021-22	244.69
2022-23	374.46
<b>Total</b>	<b>1055.97</b>

**Chart 3.1: Details of cess collected**



Deficiencies noticed during the audit in the assessment, collection, and administration of cess funds are discussed in the ensuing paragraphs.

### **3.1 Cess funds being kept outside Consolidated Fund or Public Account**

Article 266 (1) of Constitution of India, subject to the provisions of Article 267, provides that all revenues received by the Government of a State, all loans raised by the Government by issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be titled the Consolidated Fund of the State. Article 266 (2) provides that all other public moneys received by or on behalf of the Government of a State shall be credited to the Public Account of the State.

Delhi is not a full-fledged State and Government of National Capital Territory of Delhi (GNCTD) doesn't have a separate public account. Instead, transactions related to deposits, advances, remittances and suspense are merged into the Public Account of the Union Government.

Audit observed that all the cess collected under the BOCW Act in Delhi is credited to the account of the Board as per the extant orders of the Government/Board, the latest being of 3 April 2023. This procedure of remitting cess directly to the accounts of the Board is not in conformity with the spirit of the above provisions of the Constitution. Further, BOCW Cess Rules, 1998 provides that the cess collected shall be transferred to the Board in the head of account of the Board under the accounting procedures of the State. Accordingly, the collected cess should be depicted firstly in Public Account (even though managed by the Union Government) and transferred to the Board Account from there.

Thus, the procedure of Labour Cess accounting and utilisation is not in conformity with the extant procedures.

### **3.2 Assessment of cess**

As per Section 6 of the Cess Rules, 1998, every employer who is carrying out any building or other construction work is required to furnish a return to the Assessing Officer (AO) to enable assessment of the amount of cess payable.

Shortcomings in assessment of cess was pointed out in para 3.2.5.4 of the Report of the CAG for the year ended March 2019. However, there still remained discrepancies in assessment of cess as follows:

(i) Scrutiny of records revealed that the AOs were not in possession of complete information viz the cost of construction, cost of borrowing, cost of designing and technical assistance, complete information on ongoing work etc., required for proper assessment of cess, in any of the nine test checked cases in South District. The South District, while admitting the facts, stated (September 2023) that complete information will be asked for in future. North West District did not provide the requisite information to audit. Further, the Government stated (March 2025) that it had issued detailed orders regarding the cess amount to be paid by the establishment in 2005 and again in 2021-22. The cess is calculated on the basis of information furnished by the establishment/contractor and as per the aforesaid order.

Reply is untenable as AOs of the selected districts were not in possession of requisite information for assessing the cess in compliance to the Orders.

(ii) For assessment of cess, the cost of construction to be considered is the cost indicated by the owner or that worked out by the Assessing Officer (AO) at rates prescribed for this purpose, whichever is higher. Audit observed underassessment of cess in two cases due to mistakes in calculation of construction cost by the AOs.

(a) In South district, cess due for construction of a commercial complex by M/s Sam Diecasting LLP was assessed taking rates for residential building instead of commercial building (Mall or Star Hotel) while working out the cost of construction. The construction cost at prescribed rates was worked

out to ₹ 14.49 crore (**Annexure I**). Assessment of cess on the basis of lower construction cost resulted in under assessment of cess by ₹ 4.45 lakh. Government stated (March 2025) that rates for residential buildings were taken as no separate rates for commercial building was given in the order dated 2 January 2006 except for malls, 5-star hotels, guest house and private hospitals.

The reply is not tenable as the building was not declared as residential building and being a commercial complex, application of rate for residential building was not in order.

- (b) In the case of construction of commercial complex and offices completed in February 2019 by M/s Puri Buildwell Private Limited in North West district, the cost of construction was calculated by the AO as per rates prescribed for hospitals, colleges and private schools instead of that for shopping malls and star hotels. The under assessment was to the tune of ₹ 2.30 lakh. The district authority while accepting (November 2023) the observation, stated that the notice has been issued to the employer/ assessee. Further, the Government stated (March 2025) that the assessment file of M/s Puri Buildwell Private Limited was being re-examined.

### **3.3 Short deposit/realisation of cess**

Rules 7 (2) and 12 of the DBOCW Rules stipulates that the assessment order passed by AO shall specify the amount of cess due, cess already paid or deducted at source and the balance amount payable along with due date for payment. Penalty not exceeding the amount of cess can be imposed for delayed payments. Audit observed the following cases of non-realisation of cess due:

- (i) AO had assessed ₹ 11.38 lakh as cess payable in two<sup>1</sup> cases (out of nine selected for audit) during 2019-23 against which only ₹ 11.10 lakh was paid as advance cess resulting in short deposit of cess by ₹ 1.35 lakh including interest of ₹ 1.07 lakh. Besides, penalty was also not levied. The district office, while accepting the facts, stated (September 2023) that notice will be issued to the concerned and amount due shall be recovered. Further, the Government stated (March 2025) that the Code on Social Security 2020 provides for self-declaration of Cess and that a system would be adopted for automated/random selection of some of such declaration for assessment.
- (ii) Cess amounting to ₹ 142.18 crore collected by MCsD during the period under review was yet to be deposited (September 2023). Non-remittance of cess by MCD was flagged in the earlier Report of CAG also (para 3.2.5.3) but the Government was yet to sort out the issue. Absence

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<sup>1</sup> M/s BMB Developers and M/s Nehru Place Hotels Ltd.

of any penal provisions in the Act/Rules for delayed remittance of Cess abet the local bodies to retain cess funds with them for long periods.

The Government stated (March 2025) that MCD had remitted (November 2023) an amount of ₹ 144.57 crore. It further stated that the Board was also continuously taking up this issue with MCD and other agencies for remitting the collected cess.

- (iii) There were delays ranging from 1 to 21 months in remitting cess deducted from contractor's bills during 2019-23 in seven test checked divisions of Public Works Department, Irrigation and Flood Control Department and Delhi Jal Board (**Annexure II**). However, no penalty was imposed and recovered.

Government stated (March 2025) that a press release/circular was released to all concerned to remit the cess collected in Board's bank account online.

- (iv) In district offices, cess is collected by the cess collectors (Labour Officers and Inspecting Officers) through account payee cheques and other modes and then remitted to the Board. As per records of the Board, 283 dishonored cheques amounting to ₹ 9.58 crore were under re-issue/revalidation as of March 2023, some of which pertained to even 2017-18. These included 178 cheques/demand drafts pertaining to the period from April 2019 to October 2020 which expired as they were not deposited within the validity period of the cheque. In its reply, the Board stated that it had returned the dishonored cheques to the DLC offices for their revalidation.

Out of 203 dishonoured/expired cheques/demand drafts involving ₹ 7.20 crore as of March, 2023 in South District, no corrective action was found on record to make recovery of ₹ 6.50 crore from the relevant departments and agencies whereas, for the remaining cases, the district authorities stated (September 2023) that it had taken-up the matter with the employers concerned.

Government stated (March 2025) that the Board has developed a mechanism to collect cess directly from depositors through online mode only via a payment link on its web portal.

***Recommendation 4: Government needs to utilize the online payment route for all cess collections to receive cess in real-time besides ensuring better coordination with the building plan-approving agencies to ensure that cess lying with them is remitted without delay.***

### **3.4 Amount of cess realized not reconciled**

Difference in figures of cess amount as per records of cess collectors, districts and Board was pointed out in the Report of the CAG for the year ended

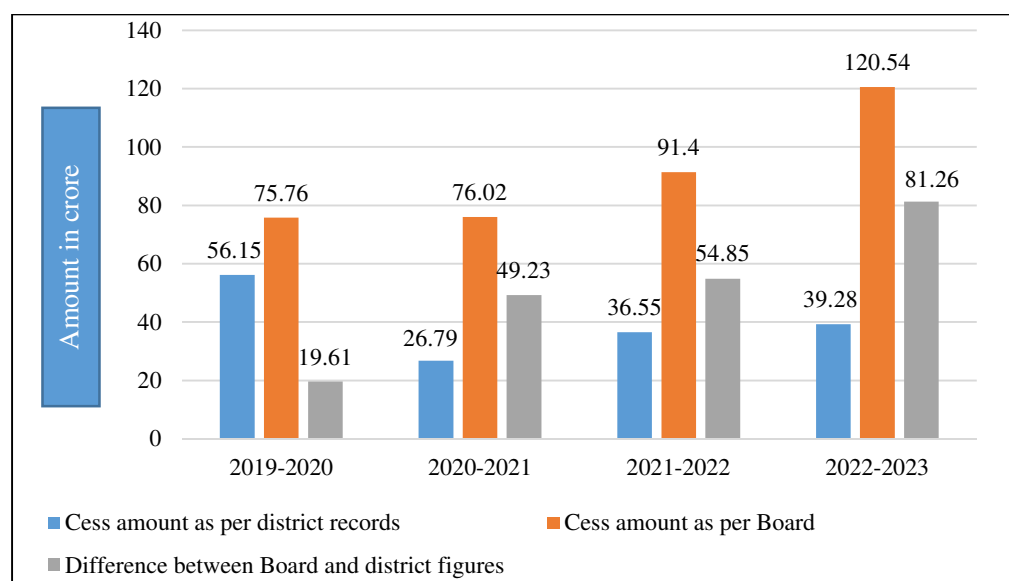
March 2019 vide para 3.2.5.2. The Government then (September 2023) stated that all the districts were reconciling the cess collection with the Board on a monthly basis. However, the issue still remains un-addressed as there was differences between figures of cess collected as per records of South and North West District offices and the Board as shown in **Table 3.2**.

**Table 3.2: Cess collected as per records of South and North West Districts and Board**

(₹ in crore)

Year	Cess amount as per district records	Cess amount as per Board	Difference between Board and district figures
1	2	3	4 (3-2)
2019-2020	56.15	75.76	19.61
2020-2021	26.79	76.02	49.23
2021-2022	36.55	91.40	54.85
2022-2023	39.28	120.54	81.26
<b>Total</b>	<b>158.77</b>	<b>363.72</b>	<b>204.95</b>

**Chart 3.2: Cess collected as per records of South and North West Districts and Board**



The difference in figures of the cess as per District records and as per the Board for four years amounted to ₹ 204.95 crore. As the differences were not reconciled, the correctness of the figures could not be verified in audit.

Government stated (March 2025) that now the cess collection process has mandatorily been made online.

**Recommendation 5:** *A robust reconciliation mechanism, preferably online, should be developed to ensure that all dues are being collected and accurately accounted for.*