

CHAPTER III

Collection and Remittance of Labour Cess

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The Board did not maintain the system to watch the collection and remittance of Labour Cess. Deficiencies in the system and non-reconciliation of collection and remittance of cess amount resulted in delayed/non-remittance of the collected amount by the Local Bodies/Authorities. The Board could not ensure the reconciliation of amounts received towards labour welfare cess and the timely crediting of these funds to the Board's deposit account. Significant discrepancies were also noted between the cess amounts reported as remitted by government agencies/Boards and the amounts received by the Board.

3.1 System of collection and remittance

The Board levies and collects a cess at the rate of one *per cent* on the cost of construction of a building and other construction work from the employer at the time of approval of such building or other construction work by the local authority. In relation to a building or other construction work of the Government or of a Public Sector Undertaking, the cess is deducted at source from the running account bills. The cess collected by the local authority, or the State Government shall be paid to the Board within 30 days of its collection. The payment of cess in advance is subject to a final assessment of the cost of construction.

Audit observed that the Local Bodies/authorities followed three different systems for collection and remittance of Labour Cess:

- Labour Cess amount is collected by the Local Body from the building permit applicant in the form of DD/cheque and the instrument is sent to the Board.
- The building permit applicant is asked to remit the assessed amount of Labour Cess directly into the bank account of the Board.
- Labour Cess amount is collected by the Local Body, credited to its own account, and subsequently, remitted to the Board in lumpsum.

The Government departments like Public Works Department, Irrigation, *etc.*, that carry out construction works, deduct the Labour Cess amount from the bills payable to the contractors and remit it to the Public Account (Head of Account '8449-00-120-0-18-660'). The Commissioner of Treasuries transfers the accumulated balances in the Public Account to the bank account of the Board periodically.

The cess assessing/collecting/remitting agencies are to furnish the details of cess collection to the Board along with a forwarding letter. These details would help the Board to check correctness of assessment and collection and would also facilitate the reconciliation with actual receipt of money in the Board's bank account.

3.2 Deficiencies in the system of collection and remittance of Cess

As already discussed in the preceding Paragraph, cess remitting agencies shall furnish the details of cess collected for building permit approval and cess deducted from construction works. The observations on non-reconciliation of cess amounts and delayed remittance *etc.*, due to system deficiencies are discussed in the succeeding paragraphs.

3.2.1 Absence of Demand Collection Balance details

To verify the payment of cess by registered establishments and assess their dues, the Board should maintain a Demand Collection and Balance (DCB) Statement. The DCB should detail all establishments, and the cess amounts collected from them, serving as a monitoring tool for outstanding balances. However, the Board did not maintain a DCB statement for overseeing cess collection. The Board did not have a system in place to assess the amounts due to it, as a result of which demands were not raised and the cess due for collection could not be ascertained.

Due to non-maintenance of DCB statement, field offices were unable to independently verify cess payments and had to rely on details provided by establishments. During Audit examination of assessment cases in LO-1, Belagavi¹⁵, it was noticed that No Objection Certificates were issued by the office for granting completion certificates by the Belagavi City Corporation. The LO certified that establishments had remitted assessed cess amounts based on provided challans. Thus, there is a gap in information on the amount collected and balance payable. However, upon cross-verification of the challans with Board bank account credits, Audit observed that ₹25.79 lakh from 51 cases had not been received by the Board, indicating incomplete remittance to the Board. The Labour Officers were also unable to ascertain if the total cess had been paid before issuing NOC.

The Government stated (August 2024) that efforts were being made by the Board to integrate the software with other agencies who were liable to pay the cess, thereby enabling the Board to prepare DCB. For this purpose, the Board had proposed to introduce “Cess Tracking and Monitoring Mechanism”, which would soon be made functional.

3.3 Non-realisation of Cess dues – ₹18.12 crore

Rule 5 of the Building and Other Construction Workers’ (BOCW) Welfare Cess Rules, 1998, mandates that the proceeds of the cess collected under Rule 4 must be transferred to the Board within 30 days of collection. A notification by the Government of Karnataka further specifies that all Government departments, Public Sector Undertakings, and other government agencies are required to deduct one *per cent* of the amount from running account bills for building and other construction works and remit it to the Board within 30 days. Further, the Board has issued various circulars/ instructions directing the concerned

¹⁵ Test checked as No Objection Certificate (NOC) was issued only in LO-1 Belagavi.

departments to deposit the collected cess amount promptly through RTGS/NEFT, ensuring compliance with the regulatory framework.

Audit observed that the Board returned total number of 9,654 defective cheques/demand drafts accumulated since 2007-08, amounting to ₹18.12 crore. Among these, 7,139 instruments valued at ₹9.90 crore were returned by the Board to the issuer for reasons such as incorrect recipient name and expired dates, while 2,515 instruments worth ₹8.22 crore were returned by banks due to bounced cheques and non-existent accounts. To address this issue, the Board sent letters to 700 work executing departments and agencies across Karnataka (October 2022), requesting details of cess amounts. However, revised, or rectified instruments were not received in these cases.

The Board did not establish a monitoring mechanism to track returned cheques and demand drafts, as well as to ensure the proper accounting of the Cess collected from these instruments though the issue was already pointed out by Audit in the earlier CAG's Audit Report¹⁶.

In the exit conference, the Principal Secretary accepted the Audit observations and stated that the Cheques/DDs pertain to the years 2007-08 onwards and some agencies had reported that the cess was already remitted by them in the subsequent years. However, the verification of the same was difficult.

3.4 Labour Cess remitted by KSDB not traced in the Board bank records

Analysis of data collected in respect of cess collection by various divisions of Karnataka Slum Development Board (KSDB) and their subsequent remittance to the Board during the period 2018-19 to 2022-23 revealed that ₹11.91 crore pertaining to 257 cases, stated to have been remitted through DD/Cheques were not traced in the Board's bank accounts till date (January 2024) and similarly, 21 cases of RTGS worth ₹0.18 crore were also not traced as detailed in **Appendix 3.1**.

The KSDB did not furnish the details of RTGS though called for. The possibility of temporary misappropriation of these funds could not be ruled out. Thus, total amount of ₹12.09 crore (₹11.91 crore plus ₹0.18 crore) stated to have been credited by KSDB, could not be traced to the bank accounts of the Board.

On this being pointed out by Audit, the Government had taken action to trace ₹6.82 crore in the Board's bank statements. Government also stated that action was being initiated to trace the balance amount of ₹5.27 crore by addressing letters to all the divisional officers of KSDB.

¹⁶ Vide Audit Paragraph No. 3.1.5.2. of C&AG's Audit Report No.3 (General and Social Sector) for the year ended 2020.

3.5 Delay in remittance of Labour Cess by BDA

As per section 8 of BOCW Cess Act, if any employer fails to pay any amount of cess 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.

Audit obtained details of labour cess deducted from bills paid during the year 2022-23 by the Bangalore Development Authority (BDA) and the subsequent remittance made to the Board account. It was observed that the amounts deducted from the bills were not remitted within the prescribed 30-day timeframe as stipulated under Section 9 of the Cess Act. The delay in remittance ranged from 2 to 113 days.

Despite BDA sending deduction and remittance details to the Board, it did not notice the delay in remittance and did not instruct BDA to remit the amount within the specified timeframe. This lack of oversight resulted in prolonged delays in remittance, potentially impacting the timely availability of funds for welfare schemes and regulatory compliance.

The Government stated (August 2024) that it was decided to levy two *per cent* interest on the delayed payments by the cess collecting agencies and a notification was also issued for levy of interest in accordance with the provisions of the Cess Act. The fact, however, remains that the penal provisions were not imposed and cess deducted from the bills continued to remain unremitted beyond the prescribed 30 days.

3.6 Discrepancies in remittance of Labour Cess by Local Bodies/ Authorities

Information regarding the cess collected and remitted by various Government Departments/Boards involved in construction activities for the period from 2018-19 to 2022-23 was obtained by Audit and cross-checked with the details of the cess shown as received by the Board from these agencies.

Audit observed significant discrepancies between the amounts stated as remitted by agencies/Boards and the amounts received by the Board for the period from 2018-19 to 2022-23. For instance, there was a difference of ₹ 92.09 crore in the case of Karnataka Industrial Area Development Board (KIADB), ₹5.27 crore in the case of Karnataka Slum Development Board (KSDB), ₹4.55 crore in the Tumakuru Smart City Limited, ₹2.73 crore in the Shivamogga Smart City Limited, and ₹0.10 crore in Karnataka State Industrial & Infrastructure Development Corporation Limited (KSIIDC).

Audit collected data of labour cess collection and remittance by BMTC for the period 2021-22 and 2022-23 and observed that an amount of ₹6.06 crore though collected much before April 2021 is still retained with BMTC, without being remitted to the Board.

In cases where the cess collecting authorities did not remit the collected labour welfare cess amounts within the stipulated time of 30 days, the possibility of temporary diversion of funds could not be ruled out. Audit observed that though there was a provision for levy of penalty under Section 9 of the Cess Act, no penalty was imposed for non-payment of cess by the employer.

Remittance of cess by the Local Bodies/other agencies was not watched and reconciled by the Board due to the following reasons viz.,

- (i) The Board did not have a comprehensive database of cess collecting/remitting agencies.
- (ii) The Board was unaware of the actual cess amount due, amount collected and remitted.
- (iii) The Board did not appoint an authority to assess the collected cess.

The Board did not maintain a comprehensive database of the work executing agencies/ establishments from whom the labour cess is due to be collected and received every year.

The Government stated (August 2024) that the Board had initiated correspondences with the concerned agencies for reconciliation of the differences in cess.

Recommendation 3: The State Government should direct Board to establish a robust mechanism for maintaining DCB statements and verifying cess payments.

Recommendation 4: The State Government should impose penalty in accordance with the relevant provisions of the Cess Act on the employers for delayed remittance of cess to the Boards.

3.7 Other Observations

3.7.1 Non-reconciliation of balances with Treasury accounts

The Labour Cess is deducted at source in respect of the running account bills paid through treasury for the works executed for State Government departments. The amount of cess was accounted for under the Public Account (Head of Account '8449-00-120-0-18-660') in Government Treasury from November 2017. A comment on ₹225.37 crore cess collected during the year 2017-18 and 2018-19 lying in Public Account and not transferred to the Board was included in **Para 3.1.5.1** of C&AG's Report No. 3 for the year 2020. The Board then opened (April 2022) a recipient account in Treasury to transfer the cess accumulated in the Deposit account.

The outstanding amount of labour welfare cess as per VLC data in the office of the Accountant General (A&E), Karnataka and the amounts transferred by the Treasury to the Board Accounts were obtained in Audit and are detailed in **Table 3.1:**

Table 3.1: Details of transactions in Public Account

(₹ in crore)

Period	Amounts credited	Amounts Debited	Net amount due to the Board
As on 31st March 2023	1,275.17	899.32	375.86
For 2023-24 (up to 30 November 2023)	236.07	Nil	236.07
Total	1,511.25	899.32	611.93

Source: VLC data obtained from AG(A&E), Karnataka and Treasury details from Commissioner of Treasuries.

As of November 2023, the outstanding amount under the labour welfare cess account, due to the Board, totalled ₹611.93 crore. However, the Commissioner of Treasuries (CoT) confirmed only ₹339.38 crore as the balance due. This discrepancy resulted in a significant difference of ₹272.55 crore from the CoT's accounted statement. The delay in transfer of amount from the Public Account to Board's fund was also noticed.

This indicates that the reconciliation of amounts received towards labour welfare cess, as well as the timely crediting of these funds to the Board's deposit account was not carried out. This was delayed despite previous Audits highlighting the matter. The risk and possibility of using these funds as temporary cash flow receipts by the State Government could not be ruled out.

The Government stated (August 2024) that action would be taken to reconcile the cess amounts remitted by various departments to treasury. It was also stated that the Board was initiating a mechanism to integrate the *Khajane 2* software with the Board's new software.

Conclusion

In the absence of a system to watch the collection and remittance of Labour Cess, the Board did not exercise any effective control over its sole source of revenue, resulting in instances of incomplete remittance of cess amount by the collecting agencies and bodies. KSDB and BDA collected the cess and retained/belatedly remitted the same to the Board, in violation of Act/Rules. The Board could not ensure the reconciliation of amounts received towards labour welfare cess and timely crediting of these funds to the Board's deposit account. Significant discrepancies were also noticed between the cess amounts reported as remitted by government agencies/Boards and the amounts received by the Board for the period from 2018-19 to 2022-23.