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C.No. 47A
21/6/16

GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (VIGILANCE & ENFORCEMENT) DEPARTMENT

Memo.No.1 (1395-4/V&E/E1/2015)

Dt.21-05-2016.

Sub:-*** G.A.(V&E) Department – Recovery of Labour cess –
instructions issued – Regarding.

Ref:- C.No.912-4/RVEO/TPT/ENGG/2015, dt.12-02-2016 of
RV&EO, Tirupati.

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It is informed that the Regional Vigilance & Enforcement Officer, Tirupati has inspected the work "Laying of CC Road from RC Road near Swetha Engineering College to Compost Yard under SWM, taken up by Municipal Corporation, Tirupathi. Est.Cost.Rs.308.70 lakhs" which was technically approved by Engineer-in-Chief, PH&ME Department for an amount of Rs.308.70 lakhs on 06-01-2014. This estimate was approved based on the main project estimate sanctioned vide R.No.26/2013-14, dt.19-10-2013 for an amount of Rs.2329.00 lakhs. In the said estimate, an amount of Rs.2,96,286.00 was provided towards labour cess at 1%.

The Government issued instructions with the approval of Chief Secretary to Government vide GO Ms.No.111, dt.15-12-2009 that labour cess at 1% should be deducted from the bills payable to the contractors/executing agencies w.e.f.26-06-2007 in respect of all the works covered by the definition of "Building or other construction works" The G.O. is appended as **Annexure-A**.

It is abundantly clear that payment of labour cess is the responsibility of the contractor (who is the employer of works contract) and deduction from the bills and remittance to the board is the responsibility placed on the Government/PSU. This was the outcome during the meeting conducted on 27-08-2011 convened by the

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Principal Secretary, Finance regarding collection of labour cess. During the meeting, the representative from MA&UD Department was also one amongst the participants. Subsequent to this meeting, the Principal Secretary, TR&B Department issued instructions to the respective Engineering heads of R&B Department to that extent. Based on that, the Chief Engineer (R&B), CRN & MD., APRDC instructed his sub-ordinate officials not to provide labour cess in the estimates/working estimates. Copy of the relevant enclosures are appended as **Annexure-B**.

From the above, it is clear that, in respect of Government Works Contract/PSU employer is the contractor, the responsibility to pay the labour cess is on the contractor (who is the employer) and recovery of the amount from the bills of the contractor and remitting to the Board is the responsibility of the Government/PSU. The Hon'ble High Court of judicature has given comprehensive judgments vide Writ Petition Nos. 4587 of 2008 and batch Dated: 15.07.2008 and Writ Appeal No.94 of 2015. Hence, the labour cess at 1% should neither be incorporated in the estimate nor should it be loaded on value of work done, while billing.

All these days, the labour cess at 1% was incorporated in the estimate and loaded on the value of work done. Due to wrong interpretation, the payment towards labour cess at 1% was unnecessarily made on the infrastructure works taken up by all Engineering Departments. This caused lakhs of rupees loss to Government exchequer and indirectly benefited the contracting agencies to that extent.

Recovery:- An amount of **Rs1,18,936/-** paid to the Contractor towards labour cess is to be recovered.

In view of the above, necessary instructions shall be issued to all his sub-ordinate officials on the above lines.

A.R. ANURADHA
DIRECTOR GENERAL (VIG. & ENFT.) &
E.O. PRL. SECY. TO GOVT.

To
The Chief Engineer,
PH&ME Department, Sri Krishna Enclave,
2nd Lane, Lakshmi Narasimha Nagar,
Mahathma Gandhi Inner Ring Road,
Gorantla, Guntur-522 034.

Copy to:

The Commissioner, Municipal Corporation, Tirupati with directions to effect the recovery of Rs.1,18,936/- from the running bills of the contractor on the subject work without loading in the working estimate.

The Regional Vigilance & Enforcement Officer, Tirupati with the above reference.

//FORWARDED BY ORDER//


SECTION OFFICER (SC) (FAC)