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work contract tax, sales tax and any other taxes payable by the contractor will be made from the bills/Invoices due to him and will be regularised on receipt of advice from the assessing authorities and as per rules in force from time to time. Deductions towards Welfare cess for Kerala Building and other construction workers welfare fund is not applicable for this project, being an E&M works of Powerhouse".

This Clause was included based on the B.O read as 1st above. KSEBL as per B.O read as 3^d above has resolved to cancel the above Board Order dated 20.04.2018 and decided to recover the construction workers welfare cess for the whole contract for Chinnar SHEP. It was further resolved that if in the past cess is not recovered identify such cases and initiate action to recover and remit the cess. Accordingly, KSEBL is deducting the amount towards Kerala Building and Construction workers welfare fund as per Board Order dated 24.12.2022. The matter was placed before the Full Time Directors as per the note read as 5th above whether the deduction towards Kerala Building and Construction Workers Welfare Fund may be waived.

The Chief Internal Auditor as per the note read as 6th above has remarked that KSEBL vide B.O. dated 24.12.2022 made it clear that the construction of SHEP not being a factory is not exempted from levy of cess under the Building and Construction Workers Welfare Cess Act 1996. The matter is not an issue of subsequent change in law. An existing practice of law cannot be violated by a clause of an agreement between parties and ignorance of law excuses no one. Considering that Clause 4.1 and Clause 5.9.2 of the "Conditions of the Bid and Contract" explicitly state the non-applicability of Construction Workers Welfare Cess to the subject Work, the possibility that the impact of the recovery of cess might not have been considered by the contractor while quoting the offer rate cannot be ruled out. However, it may be noted that in the B.O, it has been decided that if in the past cess is not recovered, identify such cases and initiate action to recover and remit the Cess. In view of this decision already taken by Full Time Directors, it is opined that it would not be rational to waive the deduction of construction Workers Welfare Cess in the E&M works of Peruvannamuzhy SHEP (2X3MW) and to reimburse the amount to M/s Kirloskar Brothers Limited, Pune. The Financial Advisor also opined that the deduction of Welfare Cess shall be in line with B.O. dated 24.12.2022 which mandates the deduction of Cess.

M/s KBL was intimated vide letter dated 25.10.2023 regarding the B.O. dated 24.12.2022 according to which the deduction towards Welfare Cess was made. M/s KBL as per the letter read as 7th above has replied that deductions of Rs.21.38 Lakhs towards Welfare Cess for Kerala Building and other Construction Worker Welfare fund made from the due payments of the aforesaid project which is not in conformance to provisions of the contract agreement as per Work Order (Clause No. 6 - Taxes) which clearly states that deduction of the Cess is not applicable for this project, being E&M works for the Powerhouse. KBL also pointed out that

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the cost consideration of the project was done way back in June 2020, and they have incurred considerable financial impact due to extended duration of the project and also towards expediting the commissioning timeline for the project as per KSEBL requirement and has also been impacted financially on account of earlier deductions as well as loss of interest on account of the long pending payments. Moreover, KBL concluded that they shall not be able to bear any additional financial impact with unwarranted deductions towards the aforesaid Welfare Cess and has requested to release the already deducted payment of Rs.21.38 Lakhs considering contract provisions as well as long standing association with KSEBL.

As per the letter read as 8th above the Chief Engineer Civil Construction North has informed that Rs.24,49,666/- has been recovered so far from the E&M Contractor M/s Kirloskar Brothers Limited, Pune towards Welfare Cess for the Kerala Building and other Construction Worker Welfare Fund.

The matter was placed before the Board of Directors as per the note read as 9th above for a decision.

After detailed discussion, the Board of Directors

RESOLVED THAT the deduction of welfare cess for the Kerala Building and other Construction Worker Welfare Fund in E&M works of Peruvannamuzhy SHEP (2x3 MW) be continued as per prevailing rules.

Orders are issued accordingly.

By Order of the Director Board

Signed by

Lekha G

Date: 04/04/2024 18:22:21

COMPANY SECRETARY

To:

The Deputy Chief Engineer (PED) with full powers of Chief Engineer

Copy to:


The Company Secretary/ Chief Engineer (IT,CR&CAPS)/ Financial Advisor/ LA&DEO/ Chief Internal Auditor

The TA to the Chairman & Managing Director / Director (Generation-Civil) / Director (Distribution, Safety, SCM & IT) / Director (Transmission, SO & Planning)/ Director (Generation - Electrical, REES, SOURA, Sports & Welfare)

1/16/05/2024

The PA to the Director (Finance & HRM)
The Sr.CA to the Secretary (Administration)
The RCAO/ RAO
Stock File.

Forwarded / By Order



Assistant Executive Engineer