



## KERALA STATE ELECTRICITY BOARD Ltd

(Incorporated under the Companies Act, 1956)

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### ABSTRACT

Chinnar Small Hydro Electric Project (24MW -76.45 Mu) - Phase II Work on Construction of Power House, Valve House, Tailrace and Switch Yard & Hydro Mechanical & Electro Mechanical Works - Applicability of Construction Workers Welfare Cess - Sanctioned - Orders issued.

BO (FTD)No.975/2022(No.DGC/AEEIII/Chinnar/2014)

Thiruvananthapuram,Dated: 24.12.2022

- Read: 1. Note No. CECICC/7/Chinnar-PH/2022-23, Dated:31.08.2022 of the Chief Engineer (Civil - Investigation & Construction Central).
2. B.O. (FTD) No.1038/2018(26/AE2/2013/CE(PED)/62) dated 20.04.2018.
3. Note No. FA-ATC-DA2/2022/50 dated 11.07.2022 of the Financial Adviser.
4. Note No. LA &DEO/R/102/2022 dated 10.08.2022 of the LA &DEO.
5. Note No.DGC/AEE-III/Chinnar/2014(13) dated 26.10.2022 of the Director (Generation-Civil)
6. Letter No.Nil dated 28.11.2022 of Sri. Raju Joseph, Senior Advocate, High Court of Kerala.
7. Note No.DGC/AEE-III/ Chinnar/2014, dated 01.12.2022 of the Director (Gen-Civil) to the Full Time Directors (Agenda item No.35/12/2022).

### ORDER

The Phase II Work Contract on Construction of Power House, Valve House, Tailrace and Switch Yard and Hydro Mechanical & Electro Mechanical Works of Chinnar SHEP (24MW-76.45Mu) has been awarded to M/s. PGCCPL-Aryacon-FEPL Consortium, Aiswarya Towers, Puthencruz road, Karimugal P.O, Ernakulam for an amount of Rs.116,65,30,340/- excluding GST. The agreement on the contract has been executed on 22.07.2022 and the scheduled time of completion of works is 24 months.

The Electro Mechanical works under the contract include both Supply of E & M equipment and Erection, Testing & Commissioning of E & M equipment. M/s. FEPL, the Consortium Partner shall execute this work at the agreed amount of Rs. 62,43,47,092.50 and Rs.7,75,27,471.06 respectively, excluding GST.

The Chief Engineer (Civil- Investigation & Construction Central), as per note read as 1<sup>st</sup> above, reported that M/s.PGCCPL has included financial provision on deduction towards Construction Workers Welfare Fund in their quoted rate but has requested to clarify its applicability in the project based on prevailing Board Orders.

KSEBL as per the B.O. read as 2<sup>nd</sup> above had earlier decided to forthwith stop deductions towards Kerala Building and Other Construction Workers Welfare Fund(CWWF) in respect of E&M works being carried out in the existing Power Houses as part of R&M as well as E&M works relating to new Power houses of KSEBL considering the fact that all Power Houses of KSEBL are licensed for use as a Factory under Factories Act, 1948 and that any building or construction work to which the provisions of the Factories Act shall apply, are exempted from

paying Workers Welfare Cess.

The Deputy Chief Engineer (PED) with full powers of the Chief Engineer while observing that deduction towards CWWF is not applicable for E & M works of power projects based on the above B.O , suggested that the matter be clarified to avoid any litigation in future.

Consequently, remarks from the Financial Adviser (FA) were sought and the FA as per the note read as 3<sup>rd</sup> above remarked that it would be appropriate to collect the Welfare Cess @ 1% of the whole amount of the contract including the cost of material. The FA also suggested to obtain remarks of the LA & DEO on the matter.

The Senior Law Officer in charge of the LA & DEO as per the note read as 4<sup>th</sup> above opined that the exemption from applicability of the Cess (being covered under Factories Act) is available only from the date of starting of commercial operation of the building/project and that the Cess is applicable only for construction activities. It is further advised that the matter be brought to the attention of the Board to make modifications in the B.O. dated 20.04.2018.

Based on the above recommendations, the Chief Engineer (Civil - Investigation & Construction Central) suggested that the decision contained in the B.O dated 20.04.2018 be modified such that the "exemption from applicability of Construction Workers Welfare Cess is available only from the date of starting of commercial operation of the building/project and the said Cess is applicable only for construction activities."

The matter was placed before the Full Time Directors as per the note read as 5<sup>th</sup> and it was resolved to obtain external legal opinion on the matter. Accordingly, external legal opinion was sought and obtained as per the letter read as 6<sup>th</sup> above. It has been clarified that the Supply part of the agreement is not exegible to Cess under the Building and Construction Workers Welfare Cess Act 1996 and that the Construction of SHEP not being a factory is not exempted from levy of Cess under the Cess Act.

The matter was again placed before the Full Time Directors as per the note read as 7<sup>th</sup> above.

Having considered the matter in detail, the Full Time Directors in the meeting held on 13.12.2022

Resolved to cancel the Board Order dated 20.04.2018 and decided to recover the Construction Workers Welfare Cess for the whole contract, considering the legal opinion.

Further resolved that, if in the past Cess is not recovered, identify such cases and initiate *action to recover and remit the Cess*.

Orders are issued accordingly.

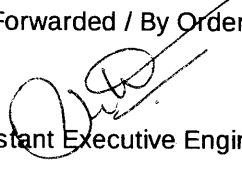
**By Order of the  
Full Time Directors  
Sd/-  
LEKHA G  
Company Secretary**

To:

*The Chief Engineer (Civil- Investigation & Construction Central).*

Copy to: The Chief Engineer (IT,CR&CAPS)/ Chief Internal Auditor/ Company Secretary/  
Financial Advisor/ LA&DEO/ RAO/RAO  
The TA to the Chairman & Managing Director / Director (Generation-Civil)/  
Director (Generation-Electrical & HRM)/ Director (Distribution, SCM & IT)/ Director  
(Transmission, SO, P&S)/ Director (REES, SOURA, Nilaavu Projects, S&W).  
The PA to the Director (Finance).  
The Sr.CA to the Secretary (Administration).  
Stock File.

Forwarded / By Order

  
Assistant Executive Engineer