

Thirteenth Kerala Legislative Assembly

Bill No. 94

**THE BUILDING AND OTHER CONSTRUCTION WORKERS'
WELFARE CESS (KERALA AMENDMENT)
BILL, 2012**

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2012

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to amend the Building and Other Construction Workers' Welfare Cess Act, 1996

Preamble.— WHEREAS, it is expedient to amend the Building and Other Construction Workers' Welfare Cess Act, 1996 (Central Act 28 of 1996) in its application to the State of Kerala for the purposes hereinafter appearing ;

BE it enacted in the Sixty-third Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Building and Other Construction Workers' Welfare Cess (Kerala Amendment) Act, 2012.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Insertion of new section 11A.*— In the Building and Other Construction Workers' Welfare Cess Act, 1996 (Central Act 28 of 1996), after section 11, the following section shall be inserted, namely:—

“11 A. *Revision.*—Notwithstanding anything contained in sub-section (4) of section 11, the State Government may, on the ground that the appellate authority has either decided the appeal erroneously or has acted in the exercise of its jurisdiction illegally or with material irregularity, either *suo motu* or on receipt of a revision petition filed by any person aggrieved by such order, within sixty days from the date of communication of such order, call for the records of any proceedings which has been taken by the appellate authority and may make such inquiry and subject to the provisions of this Act, pass such orders as it think fit and accordingly the order of the appellate authority may be confirmed or modified or remanded back:

Provided that no such order shall be passed without giving the parties concerned an opportunity of being heard :

Provided further that the State Government may, if the aggrieved party proves that he had sufficient cause for not filing the revision petition within the time limit, condone the delay caused in filing the petition.”.

STATEMENTS OF OBJECTS AND REASONS

As per sub-section (1) of section 11 of the Building and Other Construction Workers' Welfare Cess Act, 1996 (Central Act 28 of 1996), any employer aggrieved by an order of assessment of cess made under section 5 or by an order imposing penalty for non-payment of cess within the date specified in the order of such assessment, may appeal to the appellate authority. Sub-section (4) of the said section provides that every order passed in appeal under this section shall be final and shall not be called in question in any court of law.

2. The Kerala Building and Other Construction Workers' Welfare Board has informed the Government that in certain circumstances the decision of the appellate authority have been found to be unrealistic and requires further modifications. Hence, the Board recommended to the Government to amend the said section of the Act so as to empower the Government to reconsider such decisions of the appellate authority. The Government found that there shall be a provision in the Act for the revision of the orders passed in appeal under section 11 of the Act and such a provision empowering the Government to exercise such revisional jurisdiction, on specific ground, either *suo motu* or otherwise, shall be incorporated in the said Act.

3. The Bill seeks to achieve the above object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

SHIBU BABY JOHN

EXTRACT OF THE RELEVANT PORTIONS FROM THE BUILDING AND
OTHER CONSTRUCTION WORKERS' WELFARE CESS ACT,
1996
(CENTRAL ACT 28 OF 1996)

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11. *Appeals.*—(1) Any employer aggrieved by any order of assessment made under section 5 or by an order imposing penalty made under section 9 may, within such time as may be prescribed, appeal to such appellate authority in such form and in such manner as may be prescribed.

(2) Every appeal preferred under sub-section (1) shall be accompanied by such fees as may be prescribed.

(3) After the receipt of any appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard in the matter, dispose of the appeal as expeditiously as possible.

(4) Every order passed in appeal under this section shall be final and shall not be called in question in any court of law.

12. *Penalty.*—(1) Whoever, being under an obligation to furnish a return under this Act, furnishes any return knowingly, or having reason to believe, the same to be false shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever, being liable to pay cess under this Act, wilfully or intentionally evades or attempts to evade the payment of such cess shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

(3) No court shall take cognizance of an offence punishable under this section save on a complaint made by or under the authority of the Central Government.

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