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MAHARASHTRA POLLUTION CONTROL BOARD

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Date: 16 / 5 / 2009

To
The Regional Officer,
Maharashtra Pollution Control Board,
Mumbai/Thane /Navi Mumbai/Raigad/Kalyan/Pune/Nashik
Aurangabad/Nagpur/Amravati/Kolhapur/Chandrapur

The Sub-Regional Officer,
Mumbai-I/II/III/IV / Thane-I/II/Tarapur-I/II / Navi Mumbai-I/II/Taloja/
Raigad-I/II/Mahad / Kalyan-I/II/III / Pune-I/II/Pimpri-Chinchwad/Satara/Solapur/
Nashik/Jalgaon-I/II/Ahmednagar/ Aurangabad-I/II/Latur/Nanded/Parbhani/
Nagpur-I/II/Bhandara/Chandrapur / Amravati-I/II/Akola/ Kolhapur/Sangli/
Ratnagiri/Chiplun.

CIRCULAR

Sub : Assessment of cess under the provisions of the Water
(Prevention and Control of Pollution) Cess Act, 1977

The Member Secretary of the Maharashtra Pollution Control Board has been authorized to collect cess from the person or local authority liable to pay cess and pay the amount of cess so collected to the Central Government in such manner and within such time as may be prescribed. Every person carrying on any specified industry and every local authority shall pay the cess on the basis of water consumed by such person or local authority, as the case may be for the purposes specified in Column-1 of Schedule-II at such rate, not exceeding the rates specified in the corresponding entry in the Column-2.

When any person carrying on any specified industry or any local authority, consumes water for domestic purpose, liable to pay cess, fails to comply with :-

- (i) Any of the provisions of Section 25 of the Water (Prevention and Control of Pollution) Act, 1974; or
- (ii) Any of the standards laid down by the Central Government under the Environment (Protection) Act, 1986; or
- (iii) Consumes water in excess of the maximum quantity as may be prescribed in this behalf for any specified industry or local authority, then withstanding anything contained in Sub-Section 2 of Section-3, the cess shall be calculated and payable at such rate, not exceeding the rate specified in Column(3) of Schedule-II, as the Central Government may, by Notification in the Official Gazette, from time to time specified. This rate is higher than the normal rate and therefore, Section -7 of the Water (Prevention and Control of Pollution) Cess Act, 1977, provide that in case of the above non-compliances, they will not be entitled to a rebate of 25% of the cess payable by them.

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In case of compliances, the cess shall be levied at normal rate i.e. the rate not exceeding the rate specified in Corresponding Entry in Column(2) of Schedule-II.

In case of taxing statutes, it becomes necessary in view of financial implications, the non-compliances should be proved strictly in accordance with the Water (Prevention and Control of Pollution) Act, 1974 and the Environmental Standards as well as water quantity to be consumed under the Environment (Protection) Act, 1986 should be proved beyond reasonable doubt. Earlier this office had circulated a circular, pointing out that in case of large amount of assessment, in view of large consumption of water, the Field Officer / Sub-Regional Officer / Regional Officer on the field should ensure that the following steps are taken and the documentary evidence about the non-compliances accordingly prepared as well as be sent to the Cess Wing monthly, so as to strict follow-up of the provisions contained in Sub-Section-2(A) of Section 3 and Section-7 of the Cess Act, 1977, as referred in (i), (ii) and (iii) above.

- a. A detailed visit and inspection report should be prepared in respect of the large scale and medium scale industries, paying huge amount of cess, giving details of the compliance of important conditions of consent such as treatment and disposal, whether in compliance of consent condition or not ?, installation of air pollution control equipments and operation thereof, generation of hazardous waste and compliance of the conditions of authorization including Hazardous Waste (Management, Handling and Transboundary) Rules, 2008,
- b. consumption of water whether in excess of the consent condition or Environment Protection norms and the compliance of all the standards, which are laid down under Environment (Protection) Rules, 1986 i.e. Water, Air, Hazardous Waste etc. for specific category of industry as well as the general standards laid down under the Environment (Protection) Act, 1986.
- c. The monthly sampling (LES-in case of large scale industries, consuming very huge quantity of water; JVS-for both large, medium and small scale industries; ambient air quality standards; stack monitoring and hazardous waste sampling as well as compliance) should be reported so as to assess the cess on the basis of compliance either at normal rate as per Column (2) of Schedule-II or as per Column (3) of Schedule-II at higher rate.

In case, the proper record in respect of compliance of the consent conditions, water consumption and environmental standards is not developed monthly, thereby, the concerned industries seek the benefits of doubt in spite of non-compliances on their part, the concerned Regional Officer / Sub-Regional Officer will be held responsible for the financial losses, which may please be noted.

This issues with the approval of the Member Secretary.

Devale
(D. T. Devale)
Sr. Law Officer

Copy submitted to :

1. The Member Secretary, MPCB, Mumbai, for information please.