



Consulting Engineers Association of India NEWSLETTER

MAY 2020

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FROM THE

PRESIDENT'S DESK



IN THIS

ISSUE

DEAR FRIENDS,

Our engagement with COVID 19 is far from over. The entire world is concerned about this only one issue, that has snatched attention from all others. It appears there is no other matter to discuss on TV or in the news media.

The working of your Association has been affected, like all other organisations, from after the Governing Council meeting on March 13, with the lockdown imposed on the country and since extended for fourth time. None has been able to attend office and we could not even pay salaries to our staff as per schedule end of April.

However the members of the Governing Council kept on 'meeting' over Zoom Conference facility on regular basis and have been able to utilise this break from routine business for taking forward the tasks for furthering the causes of the Consultancy Fraternity.

You will find in this Newsletter, the report on a very successful webinar hosted by the Association on the subject of Construction Contract issues that need revision post COVID. This was a part of the series of Webinars CEAI is going to present for serving the members' interest. The next Webinar titled "Taking Consulting Engineering Forward", will be held on June 19th, and will deal with the threat faced and action required by the entire Engineering community, due to the delay in recognising Engineering as the prime motivator for development of the country. Presence of all of you in the Webinar will help the cause and give us strength for taking forward this battle.

In this Newsletter we have given you information on the various issues that are being taken up for the benefit of the profession and we shall be happy to have your feedback and suggestions in this respect.

Warm best wishes for a safe and healthy future for you and your near and dear ones.

Warm regards,

Amitabha Ghoshal

WEBINAR ON "CHALLENGES FOR CONSTRUCTION & CONSULTING FRATERNITY – CONTRACTUAL PERSPECTIVE DURING POST PANDEMIC SCENARIO"

WEBINAR ON "TAKING CONSULTING ENGINEERING FORWARD"

OBITUARY – MR SRIKUMAR GHOSH

CEAI INTERVENTION

WEBINAR ON HYDROPOWER, DAM SAFETY AND RISK MANAGEMENT AMIDST COVID 19 CHALLENGES

VIEW POINT

MEMBERSHIP SUBSCRIPTION

WEBINAR ON “CHALLENGES FOR CONSTRUCTION & CONSULTING FRATERNITY – CONTRACTUAL PERSPECTIVE DURING POST PANDEMIC SCENARIO”

The Consulting Engineers Association of India, as part of its COVIDTIMES WEBINAR SERIES, in association with STUP and ICT Consultants had organised a Webinar on the topical issue of Challenges for Construction & Consulting Fraternity – Contractual Perspective During Post Pandemic Scenario on 22nd May 2020. The Webinar was addressed by an eminent Panel comprising of Mr. R. K. Pandey (Member, NHAI), Mr. Abhin C. Alimchandani (Chairman, STUP Consultants), Mr. Gagan Anand (Managing Partner, Legacy Law Offices) and Mr. V.N. Heggade (CEO, STUP Consultants). The Webinar was moderated by Mr. K. K. Kapila (CMD, ICT) and focused on the following aspects :

1. Force Majeure and aspects of EOT, Cost Escalation and Damages;
2. Requirements for claiming Relief on account of Force Majeure and Mitigation Measures;
3. Relief under Applicable Law;
4. Ultimately Managing the Balance Sheet;

Moderating the Webinar, Mr. Kapila mentioned that COVID 19 was an unprecedented event in the history of mankind and brought forth inadequacies in our Contracts and supporting legal provisions. The lock-down rules were executed through the Disaster Management Act 2005 which challenged the Construction and Consulting fraternity adversely by impacting performance of a Contract. The glaring impact that came to the fore was with regard to Migratory labour force who were suddenly rendered homeless, jobless and without money forcing their continued exodus. The Consulting Engineering Fraternity was rendered extremely vulnerable by the COVID Pandemic further compounded by long outstanding issues

such as GST dispensation, delays in Income Tax Refunds, Bank Guarantees for individual projects, etc. These issues were escalated to the Hon. Finance Minister and Hon. Minister of Transport by CEAI’s Infrastructure Committee, informed Mr. Kapila.

Mr. R. K. Pandey, a Panellist from NHAI mentioned that Chairman, NHAI had invited suggestions from the Consulting Fraternity on improving the performance of the Organisation in coming days and years and during the financial year end when lock down had begun, NHAI had promptly cleared payments due to the Consultants as a show of support. He remarked that this Webinar was very timely and relevant. NHAI would keenly look forward to the takeaways/emerging recommendations from the Webinar to move forward.

Mr. Abhin Alimchandani, Panellist from STUP Consultants lucidly brought out the impact of the Covid Pandemic on the Consulting industry where the manpower cost constitutes 65 to 70% which will continue to be incurred without any revenue during the lock down and post COVID period. Besides the persisting liquidity crunch, industry faced other issues such as 18% GST, high TDS rates, inadequate definition of MSME, banking and finance problems and preferential treatment to the international consultants and firms. He mentioned that necessary representations were being made through CEAI to address these issues.

Mr. Gagan Anand, Panellist from Legacy Law Offices touched upon various Contractual Issues (such as Black Listing, Debarment, Termination, Penalty, etc.) and the restrictive clauses and moved on to review them in the light of Post COVID scenario. Talking about the issue of Force Majeure, he explained that this factor does not find explicit mention in most contracts in India. Sections 32 and 56 of the Indian Contracts Act 1872 can be referred to provide relief to the concerned Parties in a Contract. He also explained about the

concerned issues of EOT and BGs and how relief can be availed in the COVID period. He further suggested that provisions ought to be made by Clients for reimbursing additional costs incurred by the Consultancy firms and Construction companies for deployment of resources during the additional period beyond the envisaged contractual period. The Client Authorities ought to consider various policy-level interventions in order to validate the changed budgets, not only of the consultancy firms but also of the EPC Contractors and PPP Concessionaires, so as to obviate prospective Dispute Resolution proceedings, such as Arbitration and Court Cases.

Mr. V.N. Heggade, Panellist from STUP Consultants briefly touched upon the need for relook at the schedule of payment for DPRs. He recommended for doing away with 70:30 method of Selection under QCBS as it was similar to L1 bidding. Given the lock down scenario which has necessitated Work From Home even for Sectors other than IT, he suggested that the Government should expedite clear directions on Home/Office Input. Most of the Consultants have arrangements for working from home for design jobs in place. This crisis period should be used for completion of designs including approvals with joint effort from consultants and their clients. Importance of collaborative digital platforms also needs to be expedited to complement the efforts.

In conclusion, Mr. Kapila remarked that for Home Office input it needs to be ensured that the Professional Indemnity and general insurance coverage to the staff who operate from home are available to the Consulting Organizations. The need of the hour was to work on Contract Clauses which explicitly caters to any untoward unprecedented scenario as has happened during COVID 19 in the future. The Clauses should clearly spell out the responsibilities of the Clients in such situations and also provide for automatic extensions of EoT, payments to Contractors/Consultants during any lock down or

similar circumstances. He further stated that all Contractors must take CAR Insurance (Construction All Risk) Policy which should cover events such as COVID 19.

He further stated that the CEAI will be working on drafting Contract Clauses with the aim to enlist their adoption and facilitate an appropriate legal provision in the Contract, so that what happened with the Migratory labour this time is never ever repeated again.

WEBINAR ON "TAKING CONSULTING ENGINEERING FORWARD"

In continuation of the Webinar series, Consulting Engineers Association of India is organizing its next webinar on the topic "*Taking Consulting Engineering Forward*" on 19th June 2020 at 3:30 pm to 5.30 p.m.

Discussions on

1. *Engineers - the backbone of the country*
2. *The Architecture-Engineering coherence*
3. *Legislation for Registration & Practicing for Engineers*
4. *Qualifications and Competence of Professionals - NBC 2016*
5. *Engineering for Growing Sustainably*

Panelists:

- a) Mr. Amitabha Ghoshal, President CEAI
- b) Mr. A P Mull, Past President CEAI
- c) Mr. Avinash Shirode President, NSS (USA) India Chapter
- d) Mr. Manoj Mittal, Civil/ Structural Consultant Independent Director-POWERGRID
- e) Mr. Dinesh Kumar Chairman, Delhi Chapter, IEI
- f) Dr. Aswath M U, President, ACCE(I)
- g) Director General, CPWD (confirmation awaited)
- h) Mr. Sanjay Pant, Head Civil Engineering, Bureau of Indian Standards

- i) Adv. Anish Dayal, Advocate Supreme Court of India

A great Visionary, accomplished Engineer, mentor to young generation, an Entrepreneur, but above all, a great Human Being, he will be remembered by all.

We would request all Engineers to register at the following link

https://us02web.zoom.us/webinar/register/WN_U1LgqNGuTHyQFniH6Vw4FA

CEAI INTERVENTION

CEAI has been pursuing various issues with the Government Departments with regard to the issues being faced by the Consultants.

OBITUARY - MR SRIKUMAR GHOSH



CEAI regrets to convey the sad demise of Mr Srikumar Ghosh on 12th May 2020. He was the Founder member and Former President of CEAI and earlier of NACE. Mr Ghosh has been actively involved in various activities of CEAI since its inception. Mr Ghosh was awarded CEAI Life Time Achievement Award 2012 for his tremendous contribution for the engineering profession.

Condolence Message from CEAI Governing Council

SRI SRIKUMAR GHOSH has been a friend and guide to the Engineering Fraternity of India, and was widely respected Internationally, for his in-depth knowledge and communication skills.

The Governing Council of Consulting Engineers Association of India (CEAI) recalls, with poignance, his immense contribution to the cause of CEAI and the Consulting Engineers in India, in its meeting held on May 15.

On behalf of all the members of CEAI, the council conveys their sense of loss and dismay, to the members of the family of Sri Ghosh, and prays to the Almighty for eternal peace of the departed SOUL.

- a) A meeting was held with Secretary, MoRTH and discussed the following issues:

Omnibus Bank Guarantee: Separate Bank Guarantees for various Works create a lot of complication. CEAI has requested MoRTH to expedite this task and issue new guidelines for adoption of Omnibus Bank Guarantee.

A large nos. of contract for DPR preparation were signed with various Consulting Engineers by Government agencies. These have been stalled and approx. 400 cores of consultants' fees are held up in this area. A decision in regard to project held up in DPR stage has been requested. Because of Covid 19 scenario, a request was made to release of 90% of payment immediately and the balance payment after scrutiny. This will help the consultants for liquidity.

- b) With a view to the request from NHAI Chairman inviting suggestions regarding improvement in the working of NHAI, CEAI invited suggestions from members. CEAI Infrastructure Committee has compiled the response received from members and sent to Chairman NHAI.

- c) **Reminder letter to Finance Minister**
CEAI sent a reminder letter to Finance Minister with the request to her urgent indulgence to our following issues so as to facilitate an environment for the Engineering Consultancies to sustain and survive the current onslaught of COVID 19 and provide business continuity.
- i) **Release of payments up to 90% of the already submitted invoice amount, as per valid payment clause, prior to scrutiny of Invoice by the department staff.** The balance payment may be released after the due process. This will enable the Consultants to pay to their staff and to the support organizations that work for them as well as to the large number of informal persons whose services are availed from time to time.
- ii) **For addressal of immediate financial crisis, the Income Tax refunds for FY 2016-17 and 2017-18 may be released on top priority across the spectrum, particularly to the Engineering Consultancy fraternity, who operate on a small capital base.**
The clearances of these outstanding payments would be of significant bearing to the Engineering Consultancy Industry and would instill hope and confidence to carry on post COVID 19 lock down towards business continuity.
- iii) **The other issue where we would like an urgent direction pertains to the current GST dispensation process, which mandates deposit of GST without actual realization of payments from the Clients. We would like to bring to your kind attention our suggestions shared vide the enclosed communication on rationalization of this process, which will be a win-win for both the Consulting Fraternity (Service Sector) and the Government Exchequer.**

WEBINAR ON HYDROPOWER, DAM SAFETY AND RISK MANAGEMENT AMIDST COVID-19 CHALLENGES

World Bank Group was organised a webinar on “HYDROPOWER, DAM SAFETY AND RISK MANAGEMENT AMIDST COVID-19 CHALLENGES” on MAY 28, 2020.

Dr Ajay Pradhan, Vice President CEAI was one of the speakers. He presented his views on “Water Infrastructure and Dam Safety in India”

VIEW POINT

Soft version of the March issue of View Point has been circulated to all members and others concerned. Soft copy can be downloaded from the link

<https://drive.google.com/open?id=1ukOMjLlKO7RW6KiELFO9h3MhzFVWJAwT>

The themes for the next three issues of Viewpoint would be:

- (a) **New Materials and Systems in Buildings & Industries** (June 2020)
- (b) **Stakeholder Management in Public Infrastructure Projects** (September 2020)
- (c) **Digital Engineering** (December 2020)

Considering the experience of CEAI members and various stakeholders in the subjects, CEAI would be happy to receive articles on the above themes.

Authors could share their knowledge and experience by providing case studies of the works executed or in execution, first-hand accounts of the challenges faced, practical issues experienced and the solutions to those, etc. Photographs, charts, diagrams, drawings, etc. would benefit our readers for better appreciation of the issues encountered and addressed.

The articles for an issue need to reach CEAI at least 6 weeks prior to the end of the month of the View Point issue.

Articles need to be in Times New Roman 12 with single line spacing with before and after 6 pt and normal margin on A4 size. A recent clear and bright passport size photograph of the author is to be sent along with the article.

Advertisement in View Point

VIEW POINT is circulated to all CEAI Members, FIDIC, Ministries of the Government of India, Public & Private Sector Undertakings, Construction Firms, Contractors, Consultants, Foreign Missions and Funding Institutions in India and other organisations related to or dealing with the engineering profession.

Advertising in the VIEW POINT gives the advertiser wide exposure and visibility.

Support from CEAI members and stakeholders are sought in increasing the number of advertisements, such that View Point gain in its stature as an unique Technical Publication.

The rates for advertisements in VIEWPOINT are given below. This is excluding GST @ 5% or as prescribed, which will be extra:

Item	Rate Per issue* (Rs)	Discounted rate at 20% for 4 consecutive issues* (Rs)
Back Cover **	25,000/-	80,000/-
Inside Front Cover ***	15,000/-	48,000/-
Inside Back Cover	15,000/-	48,000/-
Full Page	10,000/-	32,000/-

*GST @ 5% or as prescribed will be added to the above rates.

** Back Cover booked till Sept 2020

***Inside Front Cover booked till June 2021

MEMBERSHIP SUBSCRIPTION

Subscription Renewal Notice has been issued to Members in the middle of March 2020. Members are requested to pay their membership subscription at the earliest. In case you have not received the subscription notice, please inform the CEAI Secretariat at ceai.ceai@gmail.com.

Please ignore, if you have already paid.