

GOVERNMENT OF WEST BENGAL
Finance Department
Audit Branch

No. 5050-F(Y)

Dated 16.08.2017

NOTIFICATION

Subject: Clarification/Guidelines regarding issues pertaining to Contracts awarded by the State Government Departments/local authorities/statutory bodies/PSUs under Government of West Bengal due to the introduction of GST i.e. 1st July 2017.

With the introduction of GST, different Departments have sought clarifications on modalities of treatment of pending bills of different contracts in the pre-GST regime. Departments have also sought clarifications with regard to projects which have been approved prior/post to the introduction of GST on 1st July 2017.

2. Now, the following guidelines have to be followed by the Departments/local authorities/statutory bodies/PSUs under Government of West Bengal with respect to treatment of work contracts and supplies in the pre-GST and post-GST regime for:
1. Pre-GST contracts for supply of goods;
 2. Pre-GST contracts for supply services;
 3. Pre-GST works contracts;
 4. Post-GST contracts for supply of goods or services or both.

3. Pre-GST contracts:

- i. With regard to **supply of only goods** the following procedure is to be followed:

Sl.	Situation	Mode of Treatment
a.	Goods supplied before 1 st July 2017 and invoice/bill also raised before 1 st July 2017, but payment is made on or after 1 st July 2017	While making payment to the supplier on or after 1 st July 2017: <ul style="list-style-type: none">• VAT will be applicable and not GST• No TCS under WB VAT Act, 2003 is to be deducted
b.	Goods supplied before 1st July 2017 and invoice/bill raised on or after 1st July 2017	WBGST and CGST rates will be applicable.
c.	Goods supplied on or after 1st July 2017 and invoice/bill raised on or after 1st July 2017	WBGST and CGST rates will be applicable.

- ii. With regard to **supply of only services** (eg: Consultancy, Security Services, Cleaning, etc.) the following procedure is to be followed:

Sl.	Situation	Mode of Treatment
a.	Services supplied before 1st July 2017 and invoice/bill also raised before 1st July 2017, but payment is made on or after 1st July 2017	Service Tax is applicable.
b.	Services supplied before 1st July 2017 and invoice/bill raised on or after 1st July 2017 within 30 days from supply of service	Service Tax is not applicable.
c.	Services supplied before 1st July 2017 and invoice/bill raised on or after 1st July 2017 after expiry of 30 days from supply of service	Service Tax is applicable.
d.	Services supplied on or after 1st July 2017 and invoice/bill raised on or after 1st July 2017	WBGST and CGST rates will be applicable.

- iii. With regard to works contracts (eg: roads, buildings, etc.) **where the supply is of both goods and services**:

Sl.	Situation	Mode of Treatment
a.	Works Contracts executed and completed before 1st July 2017 and invoice/bill also raised before 1st July 2017, but payment is made on or after 1st July 2017	VAT is applicable. Service Tax is applicable.
b.	Works Contracts executed and completed before 1st July 2017 and invoice/bill raised on or after 1st July 2017 by the contractor within 30 days after completing such contract	VAT is applicable. Service Tax is not applicable.
c.	Works Contracts executed and completed before 1st July 2017 and invoice/bill raised on or after 1st July 2017 by the contractor after expiry of 30 days after completing such contract	VAT is applicable. Service Tax is applicable.
d.	Works Contracts executed on or after 1st July 2017 and invoice/bill raised on or after 1st July 2017	WBGST and CGST rates will be applicable.

- iv. When invoices/bills are to be raised by the contractor/supplier, the value of the bill together with the applicable tax under GST (i.e. WBSGST + CGST in case of local purchase from within the State) should not exceed the value that such contractor/supplier would have billed for prior to 1st July, 2017 inclusive of VAT and Service Tax, if any.

For instance, say, as per pre-GST contract agreement (which was inclusive of VAT and service tax, if any) the value of the project is Rs.100000/-, the bill/RA bill under GST will arrive at the taxable value in accordance with the formula below:

Taxable value =	(Value inclusive of taxes) X 100 / (100+ sum of CGST & SGST tax rates)
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So here, the project value (excluding tax), with, lets say, a GST rate of 6% CGST and 6% SGST, will be = $100000 \times 100/112 = 89285.70/-$

Thus the bill will be raised as follows:

	Rs.
Project value (excluding tax)	89285.70
Add: CGST @ 6%	5357.15
Add: SGST @ 6%	5357.15
Total	100000.00

It is clarified that under no circumstances will there be a revision of any contractual values in the contract due to impact of change in tax rate(s), if any, from VAT/Service Tax to GST.

4. Post-GST contracts:

- i. With regard to post-GST contracts or ongoing projects where estimates have been approved before 1st July 2017 i.e. those work orders given/to be given for supply of goods or services or both (works contracts), GST rates will be applicable. In other words, the supplier of goods/services/both has to pay WBGST and CGST on all taxable goods/services.
- ii. Under the West Bengal Value Added Tax Act 2003, "works contract" covered both moveable and immovable property, whereas, "works contract" under GST is restricted only to immovable property.

In GST, works involving supply of taxable goods along with labour to any moveable property (e.g. servicing of motor vehicle with motor parts, AMC contract for computers or AC machines or generator, repair of furniture, etc) has been referred to as "composite supply" as the supply of goods and labour are naturally bundled and made in conjunction with each other. The rate of tax for a "composite supply" will be that of the principal supply. In other words, the pre-dominant nature of the contract will be the deciding factor. The principal supply can either be of service or goods. For instance, in the case of servicing of motor vehicles or AMC contracts the principal supply is service and the rate of tax on service shall be applicable. On the other hand, where a contract is for supply-cum-installation of AC machine, then here the principal supply will be AC machine and the rate of tax of the AC machine will be applicable.

- iii. No TDS under GST is to be deducted till Section 51 (i.e. the Section relating to TDS) of the WBGST/CGST Act is notified and made operative.
5. Difficulty, if any, in the implementation of the above instructions may be brought to the notice of the Finance Department.

sd/-
(H.K. Dwivedi, IAS)
Principal Secretary to the
Government of West Bengal

No. 5050/1(500)-F(Y)

Dated 16.08.2017


Copy forwarded for information and necessary action to:

1. Principal Accountant General (A&E), West Bengal, Treasury Buildings, 2, Government Place West, Kolkata – 700001.
2. Principal Accountant General (Audit), West Bengal, Treasury Buildings, 2, Government Place West, Kolkata – 700001.
3. Accountant General (Receipt Works & Local Bodies Audit), West Bengal, CGO Complex, 3rd MSO Building, 5th Floor, Block DF, Sector I, Salt Lake, Kol – 700064.
4. Additional Chief Secretary/Principal Secretary/ Secretary, _____ Department.

He is requested to forward this to all Local Bodies/Statutory Bodies/PSUs and other parastatals under the administrative control of his Department.

5. Special Secretary/Additional Secretary/Commissioner/Joint Secretary/Deputy Secretary, Finance Department.
6. _____ Department.
7. Commissioner, _____ Division, _____.

8. Director, _____
9. Director of Treasuries & Accounts, West Bengal, Mitra Building, 8, Lyons Range, 3rd Floor, Kolkata – 700001.
10. District Magistrate / District Judge / Superintendent of Police, _____
11. Sub-Divisional Officer, _____
12. Block Development Officer, _____
13. Pay & Accounts Officer, Kolkata Pay & Accounts Office-I, 81/2/2, Phears Lane, Kolkata – 700012.
14. Pay & Accounts Officer, Kolkata Pay & Accounts Office-II, P-1, Hyde Lane, Kolkata – 700073.
15. Pay & Accounts Officer, Kolkata Pay & Accounts Office-III, IB Market, 1st Floor, Block IB, Sector III, Salt Lake, Kolkata – 700106.
16. Treasury Officer, _____
17. Group ____ / _____ Branch, Finance Department.
18. Sr. PS to Chief Secretary, Government of West Bengal.
19. Sri Sumit Mitra, Network Administrator, Finance (Budget) Department. He is requested to upload copy of this order in the website of Finance Department.


(Pawan Kadyan, IAS)
Joint Secretary to the
Government of West Bengal