

GOA TOURISM DEVELOPMENT
CORPORATION LTD.

INWARD No. 9173
DATE 08/11/17

Date: 06/11/2017

OFFICE MEMORANDUM

Sub: Applicability of Goods and Services Tax (GST) on works contracts in Government Departments ... Instructions on billings, payments and rates reg.

At present for an work involving goods (like supply of construction materials) as well as services, (like labour, building contractors etc.); estimates are prepared as per the items involved in the work concerned and the rates of these items are defined in the respective Goa Schedule of Rates (GSR) (as applicable for Civil, Electrical, Mechanical, etc.). In case items are not covered under the relevant GSR, than competitive market rates of the items (after carrying out rate analysis for reasonability) are considered. This estimate forms the basis for the Notice for Inviting Tender (NIT) for the work concerned. This estimate also includes a notional 15% component of the total cost towards profits and overheads.

As per this exercise, as also the analysis of the GSR, it is observed that the rates of several taxes (like Excise Duty, CST, VAT, Services tax on services, countervailing duty / Special Additional duty in case of imports, etc.) are subsumed in the rate so derived.

2. Upon implementation of the Goods and Services Tax (GST) with effect from 01st July, 2017, these taxes have been subsumed in a single rate, whereby the effective market rates have either decreased or increased on each of the items.

Further, now, the works contractors are eligible to avail Input Tax Credit (ITC) for the materials as well as services component on the procurements of the goods and services, on or after 01/07/2017. This benefit of ITC being availed by the works contractor, needs to be passed on to the Government Department and / or suitably deducted or added from the quoted rates or the rates claimed in the Running Account Bill or Final Bill, as the case may be, and thereafter GST will have to be levied.

For such works contracts, the incidence of GST will have to be calculated based upon the rate of Excise Duty / CST and / or VAT / Service tax leviable on the works contract as a whole. This includes item wise, as well as, in cases where items wise analysis cannot be done than the whole contract itself.

3. Prior to 01.07.2017, a VAT component of 08% was chargeable on average 70% of the entire work contract (as per provisions of the Goa VAT Act, 2005), considering average 30% being pure service like labour etc. This component of materials to services, forming

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part of the works contract, varies based upon the type of construction/works involved as defined under Works Contract Tax, as per provisions of the Goa VAT Act, 2005.

Further, service tax was leviable @ 15% on 40% of the entire work (original work contracts) or on 70% of the entire work in cases of repairs & maintenance; based upon the extant guidelines of the Service Tax Regime.

Considering the extant provisions of the earlier tax regime, the present GST, the costs inbuilt in the GSR etc.; the calculations worked out for a given type of works contract reveals certain variation in the works contract value; post implementation of G.S.T. w.e.f. 01/07/2017.

4. In view of the above, it has been decided that in all such works, –

(i) For the goods component (*items including materials supply, machinery equipments etc.*); the rate quoted by the contractor shall be reduced by the relevant Excise Duty / Countervailing Duty & Special Additional Duty (in case of imports) / CST or VAT and thereafter appropriate incidence of GST shall be applied.

(ii) For service component, the rate of service tax leviable shall be reduced and appropriate incidence of GST shall be levied.

(iii) In cases of ongoing works, for the portion of the work completed prior to 01.07.2017, the extant guidelines and structure of taxation existing prior to implementation of GST shall be applicable as per the provisions of the Central Goods and Services Tax Act, 2017, as well as, the Goa Goods and Services Tax Act, 2017.

(iv) In cases of ongoing works and in all cases where, work orders are yet to be issued or where tenders are being finalized or where NIT have been issued; the work order cost or estimate, as the case may be, shall be analysed and reworked as per details given and formula prescribed in **Annexure** appended.

(v) In case of variations in the rate exceeding (+) 05%, the proposal for issue of new work order shall have to be referred to the Finance (Expenditure) Department for concurrence, alongwith the detailed statement of the rate analysis done item wise.

(vi) The amount of ITC claimed by the works contractor may be reduced from the Running Account bill, upon verification of documentary evidence of the ITC claimed by the works contractor or DDO (Executive Engineer concerned) may seek a self declaration, stating therein the amount of ITC claimed or not having claimed in the transaction leading towards the supply of services and good of the works contract alongwith the copy of the relevant GST return filed.

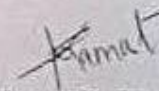
(vii) The extant rates of items in the GSR shall be revised by the appropriate authority concerned, based upon the current incidence of tax rates.

5. All DDO's viz. the Executive Engineers are advised to adhere to these instructions carefully and ensure that the claims for payments made by works contractors are correctly preferred.

The Directorate of Accounts is authorized to simultaneously carry out test audits to verify the payments being done by the DDO's of the Works Divisions of such Works executing Departments and Agencies. In the event of any difficulty being faced by the DDO's or the Directorate of Accounts (Head Quarters, Panaji) or the O/o Jt. Director of Accounts (South Branch, Margao); they may seek clarification on the applicability or incidence of the relevant rates of taxes from the O/o Addl. Commissioner of Commercial Taxes/State Taxes at Panaji or Margao.

In case of any difficulties faced by the Works executing Departments arising out of these instructions issued or in event of certain cases not fully covered by these instructions, then the matter shall be referred to the Finance (Expenditure) Department for analysis and clarifications thereon.

6. These instructions shall also apply to Government autonomous agencies / Corporations which execute various works contracts for the Government Departments.


(Sushama D. Kamat)

Under Secretary (Finance - R&C)

To

1. All Heads of Department / Heads of Offices.
2. All PSE / Corporations / Autonomous Bodies.

Copy to,

1. All Secretaries to the Government, Secretariat, Porvorim - Goa.
2. Secretary to Hon'ble Governor of Goa, Raj Bhavan, Dona Paula.
3. O.S.D. to Hon'ble Chief Minister, Ministerial Block, Secretariat.
4. O.S.D. / P.S. to Hon'ble Ministers', Ministerial Block, Secretariat.
5. P.S. to Chief Secretary, Secretariat, Porvorim - Goa.
6. The Commissioner of Commercial Taxes/State Taxes, Panaji - Goa.
7. The Addl. Commissioner of Commercial Taxes/State Taxes, Panaji.
8. The Addl. Commissioner of Commercial Taxes/State Taxes, Margao.
9. The Director, Directorate of Accounts, Panaji - Goa... for information and with a request to upload this O.M. on website www.accountsgoa.gov.in
10. The Jt. Director of Accounts, South Branch, Margao - Goa.
11. The Dy. Accountant General, Audit Bhavan, Pilerne - Goa.
12. Guard file.
13. Office file.

Instructions for regulation of payments being made to work contractors post implementation of GST w.e.f. 01/07/2017

- (i) In all cases of ongoing works where the works contract value is below ₹ 20.00 lakhs, no change in the contract value or in the bill payment process, shall be effected.
- (ii) In all cases of ongoing works where the financially assessed work executed by the works contractor exceeds 50% of the value of the works contract, where the work contract value is more than ₹ 20.00 lakhs and does not exceed ₹ 05.00 crores; no change in the contract value or in the bill payment process shall be effected.
- (iii) In all other cases of ongoing works, which are not covered under *clause (i)* and *clause (ii)* above; the payments of the bills (Running Account claims, etc.) shall be regulated as given below : -

- (a) Determine the value of taxes in the bill amount which have been subsumed in GST viz. VAT (i.e. Tax on Works Contract), CST, Excise Duty, Countervailing Duty / Special Additional Duty (in case of imports) and Service Tax.
- (b) Reduce the amount of the Bill by the amount determined as per (a) above.
- (c) Thereafter, calculate GST as applicable on the reduced value of the bill and process for payments.

For the above purpose, the value of taxes in the Bill amount shall be determined as a percentage value arrived at, in the formulation given below:-

$$\% \text{ value for reduction} = A + B + \sum (P_n \times Q_n)$$

where,

- (i) 'A' is the percentage value of VAT payable on the works contract as per % component of materials forming part of the works contract as per WCT under Goa VAT Act, 2005;
- (ii) 'B' is the percentage value of the Service Tax payable on the works contract as per % component of the services in the works contract (*viz.* 40% of for original / new works and 70% for repairs & maintenance);
- (iii) 'P_n' is the % weightage of the excisable components (n) in the works contract; and
- (iv) 'Q_n' is the rate of Excise Duty and / or CST @ 2% on the excisable components (n)

Illustration: -

Consider that the amount of the Running Account Bill of a works contract, *viz.* execution of a road works, is say ₹ 1,00,000/-.

- (i) As per Goa VAT Act, 2005, and the provisions of WCT thereunder, 70% of the works contract value was chargeable @ 8% as VAT.

(ii) Being a new / original work, the service tax was chargeable @ 15% on 40% of the gross contract value.

(iii) In the road works of the material / goods utilized in the works contract is excisable and attracts excise duty of averagely 12.5% while asphalt is 14%. These goods also involve CST @2% being procured from outside the State.

Then, (a) A = 5.185, calculated as

$$\left[70 \times \frac{8}{(100 + 8)} \right]$$

where 70 is the % component assessable for VAT and 08 is the rate of VAT for WCT

(b) B = 5.217, calculated as

$$\left[40 \times \frac{15}{(100 + 15)} \right]$$

where 40 is the % component assessable for Service Tax and 15 is rate of Service Tax

(c) P₁ = 0.075, where 7.5% is asphalt component of the material used being excisable material

(d) Q₁ = 16.28, calculated as

$$\left[14 + 114 \times \frac{2}{100} \right]$$

where 14 is the rate of excise duty on asphalt and 2% is the CST chargeable on the excisable material.

(e) P₂ = 0.175, where 17.5% is the other excisable material

(f) Q₂ = 14.75, calculated as

$$\left[12.5 + 112.5 \times \frac{2}{100} \right]$$

where 12.5 is the rate of excise duty and 2% is the CST chargeable on the excisable material.

(g) Therefore, the percentage value to be reduced from the RA Bill will be,

$$= 5.185 + 5.217 + 0.075 \times 16.28 + 0.175 \times 14.75$$

$$= 14.204$$

(h) Thus, the reduced value of the RA Bill is ₹ 85,796.

(i) On the reduced value add incidence of GST as applicable.

Note 1:- The above procedure as at clause (iii) above, shall apply for all new works, as well as, on estimates, tendered amount quoted by the L₁ contractor, reasonability of rates etc.; post implementation of GST.

Note 2:- The above illustration is only of the purpose of understanding the methodology of calculation and arriving at the % value of reduction. The rates of taxes & duties and actual % of the excisable material as also % component of materials forming part of the works contract, may vary from case to case, depending upon the type of the works.