

No. RW/G-20017/26/2018-W&A
Government of India
Ministry of Road Transport & Highways
(Planning zone)
Transport Bhawan, 1, Parliament Street, New Delhi - 110001

Dated, the 19th November, 2018.

To

1. The Chief Secretaries of all State Governments/ UTs
2. The Chairman, National Highways Authority of India (NHAI), G-5&6, Sector-10, Dwarka, New Delhi- 110075
3. Director General (Border Roads), Seema Sadak Bhawan, 4- Parliament Street, New Delhi - 110001
4. The Managing Director, NHIDCL, 3rd Floor, PTI Building, 4- Parliament Street, New Delhi - 110 001
5. The Principal Secretaries/ Secretaries of all States/ UTs Public Works Departments dealing with National Highways, Other Centrally Sponsored Schemes & State Schemes
6. The Engineers-in-Chief and Chief Engineers of all States/ UTs Public works Departments dealing with National Highways, Other Centrally Sponsored Schemes
7. All CE-ROs/ SE-ROs/ ELOs of the Ministry of RT&H

Subject: Implementation of CGST Act, 2017 - Standard Operating Procedure - Reg.

References: -

- (i) Ministry's O.M. No. RT-23018/53/2017-T, dated 25.04.2018
- (ii) Ministry's O.M. No. RW/NH-34066/20/2018-S&R (P&B), dated 01.08.2018
- (iii) Ministry of Finance (Dept. of Revenue) Circular No. 65/39/2018 - DOR (Letter No. S.31011/11/2018-ST-I-DoR, dated 14.09.2018)

Sir,

Kind attention is drawn to the Ministry's O.M.s under ref. (i) and (ii) above regarding GST Implementation at Project sites/ offices levels. The Ministry of Finance issued detailed guidelines vide Circular under ref. (iii) above for deductions and deposits of TDS under GST by the DDO, copy of which is enclosed herewith for ready reference and for ensuring needful compliance.

2. Further, this is in continuation to the Ministry's policy and guidelines issued vide the reference on above mentioned subject.

3. The CST Act, 2017 has subsumed various indirect taxes of both Central and State Governments, such as Central Excise Duty, Service Tax, Central Sales Tax (CST)/ Works Contract Tax (WCT)/ State Value Added Tax (VAT), Additional Custom duty and Special Additional Duty (SAD) apart from Entry Tax and Octroi charges, etc.

4. Keeping in view the difficulties faced and feedback received so far, it has been decided with the approval of Competent Authority to follow the Standard Operating Procedure (SOP) given below henceforth and until further orders.



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5. Incidence of application of Service Tax/ GST

Incidence of the applicability of taxes shall be as follows:-

Sr. No.	Completion of Service	Invoice Date	Payment Date	Applicability of Taxes			Applicable TDS
				Service Tax	Works Contract Tax (WCT)	GST	
1	Before June 30, 2017	Before June 30, 2017	Before June 30, 2017	Yes	Yes	No	WCT TDS
2	Before June 30, 2017	Before June 30, 2017	After June 30, 2017	Yes	Yes	No	WCT TDS
3	Before June 30, 2017	After June 30, 2017	After June 30, 2017	No	No	Yes	GST TDS
4	After June 30, 2017	After June 30, 2017	After June 30, 2017	No	No	Yes	GST TDS

6. Payments for EPC Contracts

6.1. The contract price is quoted lump-sum and inclusive of all taxes in most of EPC contracts; these taxes have now been subsumed under GST. In order to arrive at the incidence of application of Service Tax/GST as mentioned at Para 5 above, the total work shall be categorized as follows: -

- (i) Works completed up to 30.06.2017 and Billing completed by 30.06.2017.
- (ii) Works completed up to 30.06.2017 and Billing not completed by 30.06.2017.
- (iii) Works yet to be completed as on 01.07.2017.

6.2. GST Act, 2017 shall be applicable for all the works mentioned above at (ii) & (iii). Following procedure may be adopted by the Ministry/ ROs/ PIUs/ various Executing Agencies while making payments as per the provisions in the contracts:-

- (i) The project components under different major heads (like Earth, Sand, Aggregates, Steel, Cement, Bitumen etc.) are to be intimated by the contractor and checked/confirmed by the respective IE/ AE in consultation with the concerned RO/ PD for each of the Project.
- (ii) In order to compile the above information, an indicative Excel format is suggested for guidance and attached (at **Annexure-I**). It indicates various project components which attract various types of taxes including Excise Duty, CST, VAT/WCT and other taxes, which were already included in the contract price as per the original contract. The same format can be used to compile the information for each ongoing project, taking into consideration the GST Input Tax Credit available for the project. The project components and rates shown are only indicative and should be modified as per the project actuals and shall be certified by the statutory auditors of the



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Contractor/Developer/Company. In case, appointment of Statutory Auditor is not mandatory, then it can be certified by a Practicing Chartered Accountant.

- (iii) After completion of the said exercise, the costs against the subsumed taxes (Excise duty, CST, VAT/ WCT etc.) in the particular contract are to be finalized and to be mutually agreed by IE/ AE/ Ministry / concerned Executive Agency/ Contractor. The cost of subsumed taxes factored in the contract value is required to be reduced from the original contract price to arrive at the actual balance cost of the project.
- (iv) Based on such certification and mutual agreement, the concerned RO/ PD shall either pay or recover the net impact of the GST after accounting for subsumed tax component and input tax (GST) credit. The contractor shall be responsible for correct declaration of GST liability and shall provide the supporting documents, if required.
- (v) This will be an interim arrangement till the completion of the project and the final impact of GST (positive or negative) shall be worked out at the time of Final bill.

7. Preparation of DPR, Estimation of Project Cost, Cost of Utility Shifting and Change of Scope:

For all the cost estimates, which are finalized prior to 01.07.2017, there is need to revise the estimated amount taking in to consideration the implication of GST. This includes Estimated Cost for Road projects, Cost involved in Utility Shifting and estimated amount for Change in Scope. While estimating the cost, various Schedule of Rates (SoR) are followed, which are approved prior to application of GST. In all such cases, pre-GST taxes should be excluded from the cost/ estimates and the applicable GST rate shall be shown separately/ and added in the cost/ estimate.

8. Payments for Hybrid Annuity Projects (40% of Bid Project Cost), O&M Contracts and Bonus for Early completion:

- (i) Keeping in view the clarifications issued by the Ministry of Finance (Deptt. of Revenue) vide notification no. 33/ 2017, dated 13.10.2017 on Integrated Tax (Rate) that "Service by way of access to a road or a bridge on payment of annuity - applicable GST is NIL (Sl. No. 24A, Heading 9967)", no payment against GST shall be made on Annuity payments.
- (ii) Interest is payable on the reducing balance of the completion cost as per the clause no. 23.6.4 of the MCA. GST shall not be payable on interest of payment of Annuity amount.
- (iii) GST is applicable on entire payment of Operation and Maintenance (O&M) cost as per clause 23.7 of MCA with 100% input Tax credit.



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- (iv) GST shall be payable on Bonus for early completion as per clause 23.5 of the MCA without any Input Tax Credit. However, if any input tax credit is availed by the Concessionaire, the benefit of such ITC shall be passed on to the Ministry/ concerned Executing Agency.

9. Mobilization advance:

Applicability of GST on mobilization advance shall be as follows -

- (i) If the mobilization advance is refundable as per the Contract Agreement, no GST shall be payable on mobilization advance.
- (ii) If the mobilization advance is recoverable as per the Contract Agreement in future bills, then GST shall be applicable. It shall be paid by the concerned executing agency/ RO/ PD at the applicable rates and shall be suitably adjusted at the time of recovery of the Mobilization Advance.

10. Deductibility of TDS under Income Tax Act:

- (i) TDS shall continue to be deducted under the Income Tax Act, in addition to the Tax Deducted at Source (TDS) applicable under WCT/GST. Accordingly, wherever in terms of agreement or contract, the component of "GST on Services" comprised in the amount payable is indicated separately, TDS under the Income Tax Act shall be deducted on the amount paid or payable without including such "GST on Services" component. GST for this purpose shall include IGST, CGST, SGST and / UTGST.
- (ii) For Example, if the bill is proposed for Rs. 118/- which includes Rs. 100/- as a value of service/ work done and includes Rs. 18/- towards the GST, TDS under the Income Tax Act shall be deducted on Rs. 100/- and not on Rs. 118/-, as per the applicable rate prescribed under the Income Tax Act.

11. The ROs of the Ministry are permitted to hire the services of Financial Consultants/ Chartered Accountants for activities related to tax deduction under GST, maintaining of register, filing of returns, generating TDS certificate through the GSTN portal, etc., within maximum allowable limit of Rs. 1,00,000/- per annum. The expenditure shall be booked out of funds earmarked from budget head 3451 Secretariat Economic Services (Major Head), 00.090 Secretariat (Minor Head), 11 Ministry of Road Transport and Highways, 11.01 Roads and Transport Wings, 11.01.13 Office Expenses, or its amendments as issued from time to time. ROs shall accordingly refer proposals from time to time to General Section of the Ministry for earmarking of needful allocation of funds. Hiring of such services should be as per Rule 177 of GFR, 2017.

12. If the amount required for such services is more than Rs. 1 lakh/ annum, in such cases prior approval of Ministry needs to be taken.



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13. Further, the ROs of the Ministry are also authorised to hire an Accountant on Contract Basis as per the terms and conditions stipulated vide the Ministry's "norms for setting up of new PMU/ PIU for the EPC projects of MoRT&H" circulated vide Office Order No. N-20011/28/2013-E.II, dated 12.08.2013 for providing assistance to the ROs subject to obtaining prior approval of the Ministry.

14. The RPAOs of the Ministry shall furnish the actual details of the expenditures incurred and deductions made to the ROs on weekly basis on every Monday.

15. It is requested that the contents of this letter may be brought into the notice of all concerned for needful compliance.

16. This issues with the concurrence of Finance Wing vide U.O.No. 1402/TF-II, dated 12.11.2018 and approval of Secretary (RT&H).



(Mohit Kumar)
AEE (Planning)

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Enclosure: As above


Copy to:

1. All JSs / CEs in the Ministry of Road Transport & Highways
2. All Technical Officers in the Ministry of Road Transport & Highways
3. All RPAOs of the Ministry
4. The Secretary General, Indian Road Congress
5. The Director, IAHE
6. Dy. FA / Controller of Accounts
7. Technical Circular file of S&R Section
8. NIC - for uploading on Ministry's website under "What's new"

Copy for information and necessary action to:

1. PPS to Secretary (RT&H)
2. Sr. PPS to DG (RD)&SS
3. PPS to Additional Secretary
4. PPS to AS&FA
5. PS to Pr.CCA
6. PS to ADG(Z-I) / ADG(Z-II) / ADG(Z-III) / ADG(IV) / ADG(V)

Annexure-I													
Project/ Contract details (EPC Contracts)													
Name of the Contractor/ Concessionaire				Contract Agreement Number					Name of the Project				
GST No.				Date					Bill No.				
				State					Date:				
Payment Details													
a		b		c		d		e		f		g	
						Pre-GST Regime						GST Regime	
Gross Original Value of the Contract		Price variation upto 30.6.2017		Value of Services rendered upto 30.6.2017 as per original contract		Payments claimed upto 30.6.2017-original contract price		Payments claimed upto 30.6.2017-Price Variation		Bal. payments to be made after 01.07.2017 for services rendered upto 30.06.2017. (c+b-d-e)		Balance Services to be rendered-original contract Price	
99,000		1,000		64,350		45,000		750		19,600		34,650	
3													
Project Constituents		Percentage		Gross Original Value of the Contract Total		Percentage		Pre-GST		Percentage		Post-GST	
a Gross Value of Contract		-		99,000		-		64,350		-		34,650	
b Less : Margin		10%		9,000		10%		5,850		10%		3,150	
c Cost of the Project(a-b)		-		90,000		-		58,500		-		31,500	
d Bitumen		17%		15,300		9%		5,000		33%		10,300	
e Steel		8%		7,200		7%		4,000		10%		3,200	
f Cement		5%		4,500		4%		2,500		6%		2,000	
g Aggregates, Sand etc		16%		14,400		21%		12,000		8%		2,400	
h Pipes		1%		900		1%		300		2%		600	
i Oth. Materials		1%		900		1%		500		1%		400	
j HSD		17%		15,300		22%		13,000		7%		2,300	
k Labour		35%		31,500		36%		21,200		33%		10,300	
		100%		90,000		100%		58,500		100%		31,500	
4													
GST Implications (For balance work)		% Component		Value of Item in Cost		Excise duty %		VAT		Output VAT		Cost incl. Taxes	
Cost of the Project(a-b)		-		-		-		-		-		31,500	
Bitumen		33%		6,110		21%		29%		8%		10,300	
Steel		10%		2,565		10%		5%		8%		3,200	
Cement		6%		1,618		6%		8%		8%		2,000	
Aggregates, Sand etc		8%		2,222		0%		0%		8%		2,400	
Pipes		2%		545		1%		1%		8%		600	
Oth. Materials		1%		360		1%		2%		8%		400	
HSD		7%		2,130		0%		0%		8%		2,300	
Labour		33%		9,537		0%		0%		8%		10,300	
Cost of the Project		100%		25,086								31,500	
												2,324	
												28,375	
												-3026	
												-8.73%	
5 Billing Pattern													
Value of the work done by the Contract				34,650									
Less : factored in Taxes (about)				6,414									
Adjusted Value of Work done				28,236									
Add GST (on Adjusted value of work done which includes Profit Margin also)		12%		3,388									
Amount Claimed				31,624									
Notes : 1 The cells in Green are for input 2 The correct rate of taxes for Excise,CST,VAT are to be entered. 3 The rates for VAT/Output VAT are as may be applicable for respective states 4 The issue of closing stocks are not considered due to complexities involved 5 The Components & Taxes are indicative. It has to be project specific and may change													
Authority Engineer				Contractor				RO, MORT&H					


 19.11.18

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Transport Bhawan, 1, Parliament Street, New Delhi - 110001

Dated the 10th February, 2023.

To,

1. The Chief Secretaries of all State Governments
2. The Principal Secretaries/ Secretaries of all States/ UTs Public Works Department dealing with National Highways, other Centrally Sponsored Schemes & State Schemes.
3. The Engineers-in-Chief and Engineers of all States/ UTs Public works Department dealing with National Highways, other Centrally Sponsored Schemes, CRIF etc.
4. The Director General (Border Roads), Seema Sadak Bhawan, Ring Road, New Delhi-110010.

Ref: - MoRTH circular No. RW/G-20017 /26/2018-W&A dated 19.11.2018

Sub: - Clarification regarding calculation of GST against change in rates from 18.07.2022 on the activity of construction of road in case of EPC projects under change in law - reg.

As per the recommendations of 47th GST Council meeting held on 28th & 29th June, 2022, Ministry of Finance, Department of Revenue, vide notification No. 03/2022-CT(R) dated 13.07.2022, the rate percent of CGST on "Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, -

(a) a road, bridge, tunnel, or terminal for road transportation for use by general public"

has been substituted from 6 percent to 9 percent; thereby increasing the overall rate of GST on road construction service from 12% to 18%.

2. Ministry vide circular of even no. dated 19.11.2018 had issued directions for implementation of GST @12% w.e.f from 01.07.2017.

3. Further after change in GST rate from 12 to 18%, following two situations emerge:-

- (i) Tender invited excluding GST or,
- (ii) Tender invited including GST

3.1 **Tender invited excluding GST:** - Since the bids were invited exclusive of GST and hence, GST is payable at the applicable rates (i.e., @18% instead of 12% on the invoices including IPC etc. raised after 18.07.2022). Such change in rate of GST is applicable on the tax invoices including IPC etc. raised on or after 18.07.2022 only. The above impact will be applicable on price adjustment as well as O&M paid during DLP on or after 18.07.2022.

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3.2 **Tender invited including GST:** - Since the bids were invited inclusive of GST, hence the contract is expected to consider GST @ 12% in project cost while preparing the bids.

In the above situation, if the work is yet to be completed on or after 18.07.2022, the GST under change in law due to change in rate of tax from 12% to 18% shall be calculated as under:

Let us consider the balance works value on or after 18.07.2022	Rs. 100
GST application before 18.07.2022	12%
Derived balance works value excluding GST	Rs. 100/1.12 = Rs. 89.29
GST application from 18.07.2022 @ 18% on balance works value excluding GST	Rs. 89.29 X 18% = Rs. 16.07
Revised Amount including GST	Rs. 89.29+Rs. 16.07=Rs. 105.36
Net impact	Rs. 5.36 or 5.36%

The above impact will be applicable on price adjustment as well as O&M paid during DLP on or after 18.07.2022. Under this situation, attention of field units is invited that where the date of tax invoice including IPC etc., is before 18.07.2022 and payment is made after 18.07.2022, no GST under change in law regarding change in rate of taxes shall be paid.

This change in rate of GST is applicable on the tax invoices including IPC etc. raised on or after 18.07.2022 only.

4. All the above illustrations given are for the purpose of example only. However, all payments under Change of Law shall be released with the approval of RO concerned.

5. The above circular is also applicable for EI & ISC works and works undertaken by State Government / UTs under CRIF for state roads.

6. This issues with the approval of the Secretary (RT&H).



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Copy to:

1. All Technical Officers at the Headquarters
2. All CE ROs/ All SE ROs/ DDOs
3. Secretary General, Indian road Congress
4. Director, IAHE, NOIDA

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