



No 14235/CT
III-16/3/2015-Policy

Dated 22-9-17

To

**Principal Secretary
Finance Department
Government of Odisha**

Sub: Clarification regarding Treatment of Works Contracts Under GST

Ref: FD Letter No: (FIN – CT1-TAX-0053-2017) - **26550/F Dated 11.09.2017** and
Letter No: (FIN-CT1-PG-0002-2017) - **26553/F. Dated 11.09.2017**

Sir,

With reference to the FD letter cited above, the following clarification may be issued to all Departments regarding treatment of works contracts in the pre-GST to GST transition period and also in the GST period.

1. Work Executed and Payment Made before 01.07.17

- Governed by the pre-GST provisions (i.e. OVAT liability for the goods component and Service Tax liability for the service component).
- TDS @4% as provided for in the OVAT Act must have been deducted and deposited in State Government exchequer.
- In case, TDS amount has been deducted but not yet deposited in State Government exchequer; it should be deposited immediately in the State Government exchequer under the proper Head of Account by challan deposit.

2. Work Executed Before 01.07.17, But Payment Made or To Be Made after 01.07.17

- Since the work was executed in the pre-GST period, GST provisions are not applicable.
- The TDS provision under the OVAT Act is also not applicable w.e.f. 01.07.2017 as the TDS provision stands omitted in the amended OVAT Act with effect from 01.07.17.

- Therefore, payment is to be made to the executant without TDS.
- The executant shall discharge his tax liability (OVAT and Service Tax) vis-à-vis the payment received by filing appropriate OVAT and Service Tax returns.

3 Work Executed on or after 01.07.17

- Since Work is executed in the GST period, provisions of GST Acts will be applicable, whether it is a new work or an on-going work spilled over from pre-GST period.
- The TDS provision under the GST Act (i.e. Section 51 of OGST Act and Section 51 of CGST Act) has not yet come into effect. **Therefore, no TDS deduction is to be made under GST Acts against payments released or to be released to the executants on or after 01.07.17 till further communication.**
- As per the GST Acts, the executant, is bound to issue GST invoice for receiving payment. Therefore, once the measurement of the work is completed (running/final measurement) and the gross amount payable to the executant is determined by the engineer-in-charge of the work, the executant shall issue GST invoice for the gross amount receivable by him. (If the gross amount payable to the executant is determined to be Rs.100 Lakhs, the GST invoice shall be issued considering Rs.100 Lakhs as 118%, if the SGST and CGST rate is 9% each.)
(The GST rate on different types of works contracts is given at Annexure – I.)
- On receipt of GST invoice from the executant, payment shall be released to him, without TDS for the time being till further communication.
- The executant, on receipt of payment, has to discharge his tax liability under the GST Acts accordingly.

4. Variation of Contract /Agreement Amount due to GST

- As the tax rates on construction materials and works contracts services have been changed, it may lead to some variations in the contract/agreement amount of an on-going work which was started in the pre-GST period, but spilled over to GST period. However, it is not a fact that the agreement/contract amount will be enhanced by flat 12% or 18%. The executant, being a registered dealer under the OVAT Act and Service Tax provision, will get the benefit of transferring his balance Input Tax Credit standing on 30.06.17 under the OVAT Act as well as the Service Tax provision to GST period to meet his GST liability. Moreover, any purchase of goods or services he makes on or after 01.07.17 with GST invoice, he will avail the Input Tax Credit benefit while meeting his GST liability. Thirdly, the tax incidents on

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construction materials have not changed much. For example, in case of cement, in the pre-GST period, the Excise Duty (the invisible tax) was 12% plus cess, the Odisha Entry Tax(the invisible tax) was 1% and the Odisha VAT rate (the visible tax) was 14.5%, totaling 28-29%. Now in GST, cement attracts 14% CGST and 14% OGST (28% IGST if it is an inter-state supply), totaling 28%. Therefore, there is not much change in the tax incident on cement. In view of this, in most of the cases, there may not be any increase in the agreement/contract amount. In case of any claim of increase, the executant should be asked to submit written justification for the same.

Thanking you,


Yours faithfully

A handwritten signature in black ink, appearing to be 'SM', written over a horizontal line.

Commissioner of Commercial Taxes
Government of Odisha, Cuttack

GST Rate on Construction Services (As on 21.09.2017)**(Chapter 99, Sections)****Heading 9954**

Description of Service	Intra-State Supply			Inter-State Supply
	OGST	CGST	Total	IGST
(i) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.	9	9	18	18
(ii) Composite supply of works contract as defined in clause 119 of section 2 of the OGST Act'2017 as well as the CGST Act'2017.	9	9	18	18
(iii) Composite supply of works contract as defined in clause (119) of section 2 of the OGST Act'2017 as well as CGST Act'2017, <u>supplied to the Government, a local authority or a Governmental authority</u> by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, - (a) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958); (b) canal, dam or other irrigation works; (c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.	6	6	12	12
(iv) Composite supply of works contract as defined in clause (119) of section 2 of the OGST Act'2017 as well as the CGST 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; (b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana; (c) a civil structure or any other original works pertaining to the "In-situ rehabilitation of existing slum dwellers using land as a resource through private participation" under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers; (d) a civil structure or any other original works pertaining to the "Beneficiary led individual house construction / enhancement" under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana; (e) a pollution control or effluent treatment plant, except located as a part of a factory; or (f) a structure meant for funeral, burial or cremation of deceased.	6	6	12	12



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(v)	<p>Composite supply of works contract as defined in clause (119) of section the OGST Act'2017 as well as the CGST Act'2017, supplied by way of construction, erection, commissioning, or installation of original works pertaining to,-</p> <p>(a) railways, excluding monorail and metro;</p> <p>(b) a single residential unit otherwise than as a part of a residential complex;</p> <p>(c) low-cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;</p> <p>(d) low cost houses up to a carpet area of 60 square metres per house in a housing project approved by the competent authority under-</p> <p>(1) the "Affordable Housing in Partnership" component of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;</p> <p>(2) any housing scheme of a State Government;</p> <p>(e) post-harvest storage infrastructure for agricultural produce including a cold storage for such purposes; or</p> <p>(f) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages.</p>	6	6	12	12
(vi)	<p>Services provided to the Central Government, State Government, Union Territory, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of -</p> <p>(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;</p> <p>(b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or</p> <p>(c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017.</p>	6	6	12	12
(vii)	<p>Construction services other than (i), (ii), (iii), (iv), (v) and (vi) above.</p>	9	9	18	18


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