



No.30-1(5)/2018-IFD  
Dated 19-03-2018

To

Hheads of all National Laboratories/Institutes

Sir,

I am directed to forward herewith the minutes of meeting of GST facilitation cell held on 19-2-2018 duly approved by the competent authority for your information and guidance.

2. Attention is invited to item No.1 of the minutes. Accordingly every Lab. should constitute internal GST Committee as per the recommendation of GST cell and henceforth all the proposal should forwarded to CSIR after following prescribed procedure outlined therein.

3. As recommended by GST cell at para 4(i) "other issues", all the CSIR Labs./Instts. are requested to provide the information on total amount of GST payment during 2017-18. The information should reach on or before 15<sup>th</sup> April 2018 at [gst@csir.res.in](mailto:gst@csir.res.in).

Yours faithfully,

*G. Mishra* 19/3/18  
(G.Mishra)

Deputy Financial Adviser

Encl : a/a

Copy to :

1. Head, IT Division with the request to make the circular available on website.
2. Office copy



**Minutes of the meeting of GST facilitation cell held on 19.02.2018 in the Room No.101 of CSIR HQ at 11.30 AM**

**Ref:** IFD OM no.30-1(5)/2018-IFD dated 2.02.2018

The first meeting of GST facilitation Cell was held on 19.02.2018 to discuss the agenda as mentioned in the above referred OM. The following members were present:-

1. Ms. Sumita Sarkar, FA, CSIR, Chairman
2. Dr. Sudeep Kumar, Head Mission Directorate, member
3. Dr. Anjan Ray, Head RPPBDD, member (connected via VC)
4. Shri Manuel Thomas, Sr. DS(PD), member
5. Shri R. K. Rao, Sr. CoSP, member
6. Shri Pawan Mishra, Law Officer
7. Shri Anil Kumar Sc., Legal Section
8. Shri G. Mishra, DFA (IFD), member cum convener
9. Shri Ajay Kumar, FAO (IFD)

The committee members discussed the agenda items and issues which arise during the discussion. The items of discussion and recommendation of the members are given hereunder.

**Agenda item 1:-** To discuss and formulate further course of action apropose constitution of GST facilitation cell.

**Recommendation:-** The committee recommended that every lab may have internal GST committee comprising of Head PME/BDG, CoA/AO, CoFA/FAO and CoSP/SPO which will consider the GST issues. The help of GST help desk as formed by CBEC to resolve the queries related to GST may also be taken. Even then, if any issue persists; the same may be forwarded to CSIR with the recommendation of internal GST Committee along with all the related information such as nature of service or goods, HSN/SAC Code, quantity, inter-state or intra-state supply, wherever applicable etc., duly approved by the Director/Head of the Lab.


**Agenda item 2:-** To consider the clarification sought on GST received by CSIR Labs to date.

**1. SERC Chennai.**

**Point 1:-** Column No.4 under point no. (ii), it has been mentioned that a Certificate from the Head of Institution in each case to be furnished to the supplier. In this regard, please inform whether the officer not below the rank of Dy. Secretary to furnish the certificate or the Head of Institution, i.e. Director.

**Recommendation:-** As per GoI Notification No.45/2017-Central Tax (Rate) dated 14.11.2017 to the extent applicable, two certificates are required to be produced to the supplier. (i) a certificate from the Deputy Secretary level officer of the lab mentioning the specified goods (ii) a certificate from the Head of the institution, in each case, certifying that the said goods are required for research purpose. Further, it has been made amply clear in the Explanation below the table of Notification No.45/2017-Central Tax (Rate) dated 14.11.2017 that the Head means in relation to an institution, the Director thereof. Therefore, at the time of supply, a certificate to the supplier from the Director/Head of the Institution, in each case are required.

**Point 2:-** It may be clarified the percentage of total GST payable is 2.5% or 5% (2.5%+2.5%), since some parties are claiming 5%.





**Recommendation:-** The rate of 2.5% as per Notification No.45/2017-Central Tax (Rate) dated 14.11.2017 is for Central CGST levy. For the SGST, the corresponding notification/rate may be referred by the lab.

**Point 3:-** Item listed under column 3, whether the concession is available if procured directly from the manufacturer or from the dealers also. Is this concession of GST available for procurement from agents or dealers also? Is this concession of GST available for procurement from agents or dealers.

**Recommendation:-** The issue may be examined by the lab with specific reference to rule position and may be forwarded to CSIR after following the procedure as mentioned in the comments of Agenda item 1 above along with all the supporting documents.

## **2. ESD, CSIR HQ.**

ESD stated that Labs are requesting ESD to provide guidance in the matter regarding applicability of GST in Works Contract for the following:-

**Point 1:-** The on-going works commenced in Pre-GST regime and continuing in the Post-GST regime.

**Recommendation:-** The GST will be applicable on any supply on or after 01.07.2017. The Govt. of West Bengal, Audit Branch has issued guidelines in respect to works contract Pre-GST and Post-GST regime and has compiled the tax liability in various situations which may be referred by ESD for guidance on the matter. However, the conformity of the clarification w.r.t. GST Acts and Rules may be ensured by ESD before issuing any advice on the matter to the lab.

**Point 2:-** Deduction of TDS (GST), if any, for works contracts in Pre-GST and Post-GST regime.

**Recommendation:-** Under the GST regime, Section 51 of the CGST Act, 2017 prescribes the authority and procedure for 'Tax Deduction at Source'. The Government may order the following persons (the deductor) to deduct tax at source: (a) A department or an establishment of the Central Government or State Government; or (b) Local authority; or (c) Governmental agencies; or (d) Such persons or category of persons as may be notified by the Government on the recommendations of the Council. In pursuance to above, GoI vide notification no.33/2017-Central Tax dated 15.09.2017 has specified the authorities to deduct TDS which includes society also. However, the effective date will be notified subsequently.

Therefore as and when the notification for its implementation is issued in regards to TDS (GST), the same will be applicable to CSIR.

**Point 3:-** Rate of GST (%) i.e. whether 18% or 12%.

**Recommendation:-** As CSIR was established through a resolution of the then Department of Commerce, CSIR is covered under the definition of Government Entity as per the definition of Government Entity notified vide GoI notification no.31/2017-Central Tax (Rate) dated 13.10.2017, subject to the condition as mentioned in the column 5 of the said notification. Therefore, the rate of the tax for the items as notified vide notification no.31/2017-Central Tax





(Rate) dated 13.10.2017 read along with Notification No.24/2017-Central Tax (Rate) amending the Notification No.11/2017-Central Tax (Rate) dated 28.06.2017 subject to the condition as mentioned in the column 5 of the said notification will be applicable.

**Point 4:-** Methodology to be adopted to deal with the GST payment to be made by the contractors to GST department, and liability and role of the department (CSIR) to this effect so as to ensure that the GST amount is deposited to the GoI.

**Recommendation:-** Since the GoI has now put in place a mechanism to track the various transactions through the mandate to file various GST returns, there is no need to follow any separate methodology to ensure that GST amount is deposited to GoI.

**Point 5:-** Whether CSIR is considered Government entity or otherwise.

**Recommendation:-** CSIR is covered under the definition of Government Entity as per the definition of Government Entity notified vide GoI notification no.31/2017-Central Tax (Rate) dated 13.10.2017 for the purpose specified and to the extent applicable in the said notification.

### 3. CSIR IPU.

The advice on the matter of payment of Service Tax to the IP firms in the pre-GST and payment of GST in GST regime was obtained from M/s RK Satija & Co.(Advocates & Solicitors). The draft report of M/s RK Satija & Co.(Advocates & Solicitors) submitted to CSIR on the issue of GST states that CSIR is not liable to pay or reimburse GST paid by empaneled IP firms on the invoice amount of foreign associate (s). Also, CSIR being not a 'Business Entity' is also not liable to pay GST on the bill of empaneled Indian Attorneys. During the current financial year (till 30-9-17) reimbursement of Rs.25.289 lakh on account of GST was claimed by various IP Firms along with their Debit Notes. However, IPU has cleared their bills (Debit Notes) after deducting the GST component which was kept separately under Budget Head "GDA R92" due to lack of legal clarity on this matter. In the draft report, the additional solicitor general has also advised CSIR for taking up this issue with the GST Council. Therefore, the following issues need clarification:-

**Point 1:-** Whether IPU is liable to reimburse the GST amount paid by IP firms on import of service i.e. service taken from foreign associate on behalf of CSIR IPU. If yes, IPU will reimburse Rs.25.289 lakh (withheld from past bills) to the respective IP firms.

**Point 2:-** Whether CSIR IPU is liable to pay GST on empaneled Indian Attorneys bill (excluding amount of foreign associate's invoice raised directly to Indian attorneys). If yes, please clarify whether CSIR being service recipient has to pay the GST under Reverse Charge Mechanism?

**Point 3:-** IPU is in process for fresh empanelment of Indian IP Firm/ Foreign Associate and requested for "expression of interest" from interested firms. In this regard, kindly advise us on the applicability of GST on the bills of (i) Indian Attorneys and (ii) bills of foreign associates raising the invoice directly to IPU. Accordingly, IPU will incorporate the clause in tender being finalized.

#### **Recommendation**

(i) GoI Notification no.2/2018 Central Tax (Rate) dated 25.01.2018 amending S.No.45 of Notification no.12/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017 and GoI Notification no.2/2018 Integrated Tax (Rate) dated 25.01.2018 amending S.No.47 of Notification no.9/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017 states that "Services provided by a partnership firm of





advocates or an individual as an advocate other than a senior advocate, by way of legal services to Central Govt, State Govt, UT, local authority, Govt authority or Govt Entity" will be exempted. However, IPU will ascertain on its own, the nature of services rendered by the concerned firms. If need be, the opinion of Legal Adviser, CSIR may be obtained.

(ii) IP firms and foreign associates/agents provide variety of services to the IPU. GST notifications as issued from time to time have no mention of IP firms and related services. In this regard, IPU is required to ascertain the kind of services provided by IP firm/agents and whether all or some of these services are covered under the ambit of the legal services or otherwise as per above notification. The issue may be examined at the end of IPU and the matter may be referred to GST Council for clarification.


(iii) Legal Section was also advised to refer the pending issues of IPU to GST council as already advised by additional solicitor general.


#### 4. Other issues.

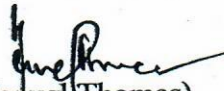
(i) The Committee also recommended that lab-wise data on GST payment may be obtained from all the CSIR labs to ascertain the amount which is being paid as GST. Committee also desired that all the recommendations of GST facilitation cell may be forwarded to all the labs for guidance on the GST issues.


(ii) Dr. Anjan Ray also raised the issue of applicability of GST on export of services. In this regard, it is stated that the provisions of Section 16 of the IGST Act 2017 will be applicable on export of services or goods. The export of services or goods under bond or Letter of Undertaking should be the preferable mode out of two available options in the Act.


The meeting ended with vote of thanks to the chair.


  
(Dr. Anjan Ray)  
Head, RPPBDD

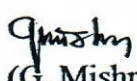
  
(Dr. Sudeep Kumar)  
Head, Mission Directorate

  
(Manuel Thomas)  
Sr. DS (PD)

  
(R.K. Rao)  
Sr. CoSP

  
(Pawan Mishra)  
Law Officer

  
(Anil Kumar)  
Sc., Legal Section

  
(G. Mishra)  
DFA (IFD)

  
(Ajay Kumar)  
FAO (IFD)

  
(Sumita Sarkar)  
FA, CSIR

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

$$\text{Taxable value} = \frac{(\text{Value inclusive of taxes}) \times 100}{(100 + \text{sum of CGST \& SGST tax rates})}$$

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:

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