



**CENTRAL WAREHOUSING CORPORATION**  
(A GOVT. OF INDIA UNDERTAKING)



CWC/FD-Taxation/ST(Gen)/12-13

Dated: 29<sup>th</sup> January, 2013

**All Regional Managers of CWC**

**All Superintending/Executive Engineers in-charge of all the Construction Cells of CWC.**

**All AGMs /Managers/(Sr.) Asstt. Managers in-charge of the Finance, Accounts & Internal Audit Wings of all ROs & CCs of CWC.**

Sub: Tender Clause relating to Service Tax in Schedule of Rates (SORs) and other terms and conditions

Sir,

This is with reference to Service Tax Circular No.65 circulated vide Ref. No. CWC/FD-Taxation/ST(Gen)/12-13 dated 16<sup>th</sup> November, 2012 (copy enclosed). Keeping in view the difficulties faced in the existing contracts where the prices are inclusive of service tax, it was advised that for new tenders with respect to services to be availed by the Corporation, the price / rates should be obtained exclusive of taxes. For this purpose, the relevant clauses to be incorporated in the price bid and terms & conditions of the agreements were also intimated in the said circular.

It is requested to kindly ensure that for new tenders / contracts, these clauses are inserted at suitable place.

This issues with the approval of General Manager(F&A).

Yours sincerely,

( A.S.GOPALAN )

Dy. General Manager(Fin.)

Copy for information to:

1. All HODs at CWC, Corporate Office, New Delhi.
2. AGM/(Sr.) Asstt. Managers/Accountants in Finance, Accounts & Internal Audit Cadre at CWC, Corporate Office, New Delhi.
3. PS to Managing Director, CWC, CO, New Delhi.
4. PS to Director (Pers.)/Director (MCP)/Director((Fin.), CWC, CO, New Delhi.
5. PS to CVO/OSD(Recovery)/GM(F&A)s, CWC, Corp. Office, New Delhi.
6. PS to GM(System), CWC, CO, New Delhi with a request to place this Circular on CWC's Website.
7. Manager(Rajbhasha), CWC, CO, New Delhi with a request to arrange Hindi Version of this Circular.

C.O.: 4/1, Siri Institutional Area, August Kranti Marg, Hauz Khas, New Delhi-110016

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**CENTRAL WAREHOUSING CORPORATION**  
(A GOVT. OF INDIA UNDERTAKING)



No. CWC/FD-Taxation/STC/12-13

16<sup>th</sup> November 2012

Service Tax Circular # 65

Subject = Tender Clause relating to Service Tax on Schedule of Rates (SORs).

It has been observed that some of the Regional Offices (ROs) have been paying Service Tax on the H&T Bills received from their H&T Contractors in addition to the H&T Charges as per the agreed Schedule of Rates (SoR), despite the fact that the SoR in those Contracts was inclusive of all Taxes, thereby making excess payment to the relevant H&T Contractors. The remaining ROs have, however, interpreted the relevant Tax Clause rightly and not paid Service Tax extra to the H&T Contractors treating the Service Charges as per SoR as inclusive of Service Tax, unlike other ROs, who could not do this and paid Service Tax over and above the SoR.

However, in order to avoid any ambiguity resulting into Excess Payment and the consequential Litigations in future, it has been decided, with the approval of the Competent Authority, that all the Tender Documents floated by the Corporation for various Input Services shall invariably provide for the following Clause in the Price Bid and the Schedule of Rates:

"The Rates quoted are exclusive of Service Tax or any other Tax levied by the Central Government in lieu of Service Tax and the same will be payable by the Corporation over and above the Schedule of Rates."

Likewise, all the Agreements/Contracts to be executed by the Corporation for receiving various Input Services shall invariably incorporate the following Clause to expressly provide for the Rates to be exclusive of Taxes, thereby meaning that the Service Tax, or any other Tax in lieu thereof, shall be payable extra over and above the Rates/Schedule of Rates.

"Service Tax or any other Tax in lieu thereof levied by the Central Govt. from time to time on the Services rendered by the Contractor to CWC shall be paid by CWC to the Contractor over and above the Schedule of Rates, subject to the Contractor submitting his Bills/Invoices therefor in the Format prescribed under Rule 4A (1) of the Service Tax Rules, 1994 or other relevant Laws, as the case may be."

Similarly, all the Agreements/Contracts to be executed by the Corporation for rendering Output Service shall invariably have the following Clause to expressly provide for the Rates to be exclusive of Taxes, thereby meaning that the Service Tax or any other Tax in lieu thereof shall be payable extra over and above the Rates/Schedule of Rates.

"Service Tax or any other Tax in lieu thereof levied by the Central Govt. from time to time on the Services rendered by CWC to its Customer shall be paid by the Customer to CWC over and above the Agreed/Schedule of Rates."

16.11.2012



Needless to mention here that such Provision must invariably be incorporated in all the Contracts, both for providing or receiving any Service, irrespective of whether the same is liable to Service Tax or not for the time being, to take care of even the future Eventualities.

All the Divisional Heads/Regional Managers/Superintending or Executive Engineers are requested to ensure that (i) all the Tender floated hereafter by the Corporation shall invariably provide for the Rates/Schedule of Rates to be expressly exclusive of Taxes and the Service Tax or any other Tax in lieu thereof shall be payable extra over and above the Rates/Schedule of Rates; and (ii) all the Agreements/Contracts being entered into by the Corporation, both for receiving the Input Services or for providing the Output Services, shall invariably provide for the Rates/Schedule of Rates to be expressly exclusive of Taxes and the Service Tax or any other Tax in lieu thereof shall be payable extra over and above the Rates/Schedule of Rates; besides ensuring to get such Agreements/Contracts vetted from some Competent Advocate or Legal Consultant to ensure that the Corporation's Interests are not subsequently jeopardized due to advertent or inadvertent Drafting Errors.

Receipt of this Circular may be acknowledged and its Contents brought to the Notice of all concerned for Scrupulous Compliance.

This issues with the approval of the Director (Fin).

  
(Sushil K Jain)  
AGM (Finance)  
16-11-2012

Distribution to:

1. All Regional Managers of CWC.
2. All Superintending/Executive Engineers in-charge of all the Construction Cells of CWC.
3. All AGMs/Managers/ (Sr.) Asstt. Managers in-charge of the Finance, Accounts & Internal Audit Wings of all ROs & CCs of CWC.

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