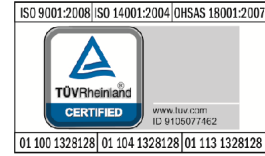




CENTRAL WAREHOUSING CORPORATION
(A GOVT. OF INDIA UNDERTAKING)



No. CWC/FD- Taxation/GST/2017-18

Dated: 30.01.2018

GST FAQs-5

- 1. All the Regional Managers of CWC**
- 2. All the Executive Engineers in -charge of Construction Cells in Regional Offices Delhi, Mumbai, Chennai and Kolkata**
- 3. All the AGMs / Managers / (Sr.) Asstt. Manager(Accts.) In -charge of Finance & Accounts Wings of all Regional Offices & Construction Cells of CWC**

Sr. No.	Queries	Clarifications
1.	<p>a) Notice period pay recovered from leaving employee if, three months notice period is not served by him/her.</p> <p>b) Bond amount recovered from leaving employee, who resigns before serving minimum period for which bond was submitted by him/her.</p>	<p>As per Sl. No. 5(f) of Schedule II to Section 7 of the CGST Act 2017, agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act shall be treated as a supply of service.</p> <p>Bond money and notice period pay recovered by CWC for tolerating any deviation from employment contract shall be treated as consideration for tolerating an act and should constitute supply of service from CWC to its resigning employees under Section 7 of the CGST Act, 2017.</p> <p>Accordingly GST shall be charged on the amount recovered from employee. The same shall be taxable @ 18%.</p>
2.	<p>Applicability of GST on transfer of unclaimed SD/EMD to Misc. receipts.</p>	<p>As per the definition of supply provided in section 7 of the CGST Act, “ <i>supply includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business</i>”</p> <p>According to Sl. No. 5(e) of schedule II to Section 7, “ <i>agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act</i>” shall be deemed to be supply of service.</p>

		<p>In this case, there is no tolerance of breach of agreement and the EMD has not been forfeited & is only unclaimed. Accordingly, the instant case should not get covered under the schedule II to Section 7 and should not be deemed to be treated as supply of service and no GST should be charged on such income.</p>
<p>3 .</p>	<p>Applicability of GST on Nepal and Bhutan bond cargo.</p>	<p>As per Notification 31/2017 dated 29/09/2017, supply of any service under chapter 99 associated with transit cargo to Nepal and Bhutan shall be exempt under GST.</p> <p>As per Chapter 99, Scheme of classification of services includes all the services including handling, transportation, storage, insurance, weighing, etc.</p> <p>Thus, any service that is associated to outbound transit cargo to Nepal and Bhutan should be exempt under this Notification.</p> <p>However, CWC needs to ensure that the services relating to transit cargo to Nepal or Bhutan are separately billed and ensure that such transit goods should not be cleared in India.</p> <p>It is preferable to obtain declaration from customer to ensure that invoice raised is for Transit cargo to Nepal.</p>
<p>4 .</p>	<p>CWC regional offices having Service Tax amount pending in Service Tax control account which pertains to invoices raised by them prior to 01.07.2011 when service tax was payable on receipt basis. If any amount is realized in GST regime towards above said service tax, whether same is to be deposited as service tax or not. Please clarify.</p>	<p>As per Section 142(11) of the CGST Act 2017, notwithstanding anything contained in Section 13, no tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994.</p> <p>Services were provided by CWC under Service tax regime before 2011, when payment of service tax was to be made on 5th of the month following in which payment is received.</p> <p>It is clarified that levy of service tax has been made under service tax regime only when the services were provided, only the payment of service tax to Central Government was deferred. As service tax has already been levied on such services, then GST cannot be levied. Thus, in case any recoveries are made by CWC now</p>

		under GST regime , applicable service tax o/s in Service Tax control account can be deposited by CWC online within due dates .
5 .	Common errors in Tax Invoices issued by CWC.	On examination of Tax invoices issued it is noticed that a .) Place of supply is not mentioned in some of the invoices. It is advised to that mentioning of place of supply in tax invoice is mandatory. b .) State code is wrongly mentioned in some of invoices in some regions . It is advised to correctly mention the two digit state code , annexure -I for GST state code .
6.	Common errors in Tax invoices issued by vendors/ supplier towards inward supply.	It is advised to obtain invoices from vendors/supplier with complete address of CWC premises as per in GST registration .
7.	Whether Sale of Scrap of old items is a taxable supply under GST?	GST is levied on supply of goods, services or both. Definition of supply under GST includes several kinds of transactions like transfer, barter, exchange etc. If CWC recover s market value of scrap from the contractor same shall tantamo unt to supply of scrap material. A ccordingly , same is liable to tax under GST at the rates mentioned in the schedules appended to GST Act. As goods being supplied as scrap are taxable under GST , tax invoice is required to be issued by CWC.
8.	Serv ice of Home guards provided by Police department for security requirements. The Police department provides only the attendance sheet verified by the warehouse manager and the payment is made based on this as per the applicable rate. Do we need to make paym ent of GST under RCM ?	CWC is receiving security services from police department which is working under State Government, against which payment is made by CWC. As per Notification No. 10/2017 - Integrated Tax (Rate) dated 28/06/17, services supplied by th Central Government, State Government, Union territory or local authority to a business entity excluding renting of immovable property and specified services shall be covered under reverse charge and tax shall be paid by recipient directly on behalf of se rvice provider. Since police department of State Government is part of State Government, accordingly any service received other than renting of immovable property and few specified services shall be

		covered under reverse charge. Thus in the instant case, CWC should pay tax under reverse charge on behalf of State Government.
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(N.K. GROVER)
Group General Manager(F&A)

Copies for information to:

1. PPS to Managing Director, CWC, CO, New Delhi
2. PS to Director(MCP), CWC, CO, New Delhi
3. PPS to GGM(A/cs), CWC, CO, New Delhi
4. All HODs at CWC, Corporate Office, New Delhi
5. All DGMs/AGMs/Managers / (Sr.) Asstt. Managers / Accountants in Finance, Accounts & Internal Audit Cadre at CWC, Corporate Office, New Delhi
6. PPS to GM(Systems), 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.

GST state codes for place of supply Annexure -I		
S.No.	State Name	State Code
1	Andaman and Nicobar Islands	35
2	Andhra Pradesh	28
3	Andhra Pradesh (New)	37
4	Arunachal Pradesh	12
5	Assam	18
6	Bihar	10
7	Chandigarh	04
8	Chattisgarh	22
9	Dadra and Nagar Haveli	26
10	Daman and Diu	25
11	DELHI	07
12	Goa	30
13	Gujarat	24
14	Haryana	06
15	Himachal Pradesh	02
16	Jammu and Kashmir	01
17	Jharkhand	20
18	Karnataka	29
19	Kerala	32
20	Lakshadweep Islands	31
21	Madhya Pradesh	23
22	Maharashtra	27
23	Manipur	14
24	Meghalaya	17
25	Mizoram	15
26	Nagaland	13
27	Odisha	21
28	Pondicherry	34
29	Punjab	03
30	Rajasthan	08
31	Sikkim	11
32	Tamil Nadu	33
33	Telangana	36
34	Tripura	16
35	Uttar Pradesh	09
36	Uttarakhand	05
37	West Bengal	19