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IAW/9/9504/GST/Query

Dt.: 01.08.2017


To

PCDA,  
New Delhi

**Subject:- Implementation of GST in Defence Sector.**


This has reference to DO letter PCDA Sectt. / 2016/CGST dated 27<sup>th</sup> June 2017, DO No. 40011/1/GST/SC –I dated 4.07.2017, PCDA New Delhi DO No. 40011/1/GST/SC –I dated 11.07.2017 and TD/3421/GST/2017 dated 14.07.2017 under which clarification on various points on GST have been sought from HQ office.

2. Point-wise clarifications are annexed as statement to this letter, for further necessary action at your end please.
3. This issues with the approval of Addl. CGDA (US).

  
(R. S. Agarwal)  
ACGDA (GST)

Copy to:-

EDP Cell- for uploading on website

  
(R. S. Agarwal)  
ACGDA (GST)

**Annexure to CGDA HQ letter no. IAW/9/9504/GST Query**

	DO / Letter NO.	Query	Clarification by GST Cell
1.	PCDA Sectt. / 2016/CGST dated 27 <sup>th</sup> June 2017	The existing system of reimbursement of taxes would continue on all the invoices generated before 1 <sup>st</sup> July, in consonance with the existing provisions of the ongoing contracts/SO.	Invoices generated before 1 <sup>st</sup> July, 2017, existing provision of the ongoing contract/ Supply Order are applicable.
2.		Above would, however, not be applicable for the invoices generated on or after 1 <sup>st</sup> July. In such cases, presumably, the GST (CGST+SGST+IGST), whichever is applicable) as claimed in the invoice may be paid to the supplier. Whether such a reimbursement would require any audit check and whether it has to be paid to a unregistered supplier also, would necessitate appropriate Govt. instructions. Till the time such an order is received, it would not be possible for the paying authority to make the payments of GST, which may have to be later. It would be, therefore appropriate to seek the instructions of the Government on this issue before 1 <sup>st</sup> July.	As per extant information, reimbursement is not indicated in the GST Act. The responsibility of depositing tax rests with the Supplier. However, this matter is being referred to MoD (Fin)/ CBEC for clarification. As such invoice may therefore be admitted as per GST Act/ rules.
3.		Comprehensive adjustments would have to be in Tulip software also which would need to be done.	The same is under process in the HQrs office. Tulip related matter may be communicated to CDA, IT&SDC, Secundrabad directly under intimation to Jt. CGDA (IT).
4.	DO No. 40011/1/GST/	While making payment against post 1 <sup>st</sup> July invoices, as per Para 17 above, following checks will be exercised by the task holder and the AAO:-  i. GST NO and name of the vendor must be mentioned on the invoice.	Agreed to. IGST will be charged as per <b>Section 7 and 8 of IGST Act.</b>

	<p>ii. Both CGST and SGST should be indicated together. IGST is payable only in case of Inter-State transfer of goods. IGST should not be paid.</p> <p>iii. Correctness of arithmetic calculation of the invoice.</p>	
5.	Invoice prepared on or after 1 <sup>st</sup> July, not having GSTIN or showing VAT/Service tax etc on the invoices will not be admitted and would be returned back to the vendor with a copy to the concerned administrative authority.	Yes, in all the invoices issued on or after 1 <sup>st</sup> July, 2017 mandatory to mention GSTIN number. <b>(Section 31 (3) (C) of GST Act, 2017)</b>
6.	There are certain existing contracts, where, prices have been quoted all inclusive without giving the breakup of various taxes. The payment in such cases will be restricted to the maximum value of the existing contract, in absence of specific formal amendment to the contract.	Subsequent to implementation of GST Act w.e.f 1 <sup>st</sup> July 2017 the GST has to be remitted by Supplier in form of the tax payable on the respective items. However vendors may be advised to indicate tax breakup of all inclusive value in invoice and pass on the benefits of Input tax credit to avoid undue profit to vendor.
7.	There are certain existing contracts, where, contract completion dated/ DP has been extended beyond 30 <sup>th</sup> June 2017 with imposition of LD, with the condition that no payment on account of increase in taxes/ new taxes will be made. Since, introduction of GST cannot be considered a new tax or increase in the tax rate and it is a replacement of all earlier taxes, full GST as claimed in the invoice without restricting it to the value of taxes applicable under pre-GST tax regime will be paid.	Agreed to, Invoices raised on or after 1 <sup>st</sup> July 2017, Supplier will reflect GST only, as per new tax structure.

8.		The entire payment which includes CGST plus SGST would be charged to the concerned service head.	Clarification awaited from MoD/ MoF. Till then booking may be done against concerned Service head.
9.		Presently no tax deduction at source (TDS) under Section 51 of the CGST is to be done. Separate orders on this issued. However, the existing system of TDS would be followed till section 51 of the CGST is made operational.	Please refer to HQr Circular No: AT/9/9504/GST/Pt-II dated 17 <sup>th</sup> July 2017.
10.		The application for registration as deductor under Section 51 would be made only after the registration is open after 17 <sup>th</sup> July.	Yes, as per instructions issued by Government of India time to time.
11.	PCDA New Delhi DO No. 40011/1/GST /SC -I dated 11.07.2017 And MoD (Fin) ID No. 30(10)/GS-II/ 2017 dated 19.07.2017	In all the ongoing Contracts, where invoices have been raised on or after 1 <sup>st</sup> July, GST is to be levied from the vendor and the paying authority has to reimburse it on the basis of evidence of payment. The contract, as such, would not need any amendment.  Understanding: - the ongoing contracts (entered prior to 1 <sup>st</sup> July) would not need any amendment for admitting post 1 <sup>st</sup> July 2017 invoices issued under them. The indirect taxes (as given in such contracts) would be replaced automatically with the due GST taxes. However, the administrative authorities may review such contracts.	Please refer to MoD (Fin) ID. No: 30(10)/GS-II/2017 dated 19.07.2017 circulated vided HQr circular No: IAW/9/9504/GST/Pt-I dated 21 <sup>st</sup> July 2017.
12.		What documentary evidence should be provided by the supplier to claim reimbursement of GST?  Understanding: Certificate of GST deposit given by Chartered Accountant (CA) or GST deposit challan, as beings done presently, can be provided by supplier to claim reimbursement of GST.	As per extant information (subject to further clarification from CBEC/MoD) reimbursement of GST does not permit in the GST Act. As per GST Act responsibility of depositing the tax, rests with the supplier in case of registered supplier. Payment of GST can be

			regulated as per GST Act/ Rule( <b>Section 49 (8) of GST Act</b> )
13.	<p>What action should be taken on the invoices generated on or after 1<sup>st</sup> July, but does not contain GST Number?</p> <p>Understanding: the invoices generated on or after 1<sup>st</sup> July without GST Number should be returned and supplier should be asked to submit fresh invoice with GST No. if the vendor is exempted from the registration in accordance with the CGST Act, a certificate from the contract concluding authority/ supplier for seeking exemption from this condition, should accompany the bills. In such payment would be released.</p>		Yes, in all the invoices issued on or after 1 <sup>st</sup> July 2017 it is mandatory to mention GSTIN number. ( <b>Section 31 (3) (C) of GST Act, 2017</b> )
14.	<p>Whether IGST should be reimbursed in case of inter-state, i.e, supplier from Haryana supplies goods to service HQrs in Delhi?</p> <p>Understanding: IGST charged on the invoice should be reimbursed to the supplier on the basis of documentary proof.</p>		Please refer to Para 12 above.
15.	<p>All new contracts issued on or after 1<sup>st</sup> July the contract should specifically mention the GST rate applicable(CGST+SGST and IGST, whichever applicable) and its reimbursement on the basis of evidence as given in Q.1 above.</p> <p>Understanding: Above position is correct.</p>		It is mandatory to mention CGST, SGST and IGST rate applicable in all new contracts issued on or after 1 <sup>st</sup> July 2017.

16.	TD/3421/GS T/2017 dated 14.07.2017	Existing system of reimbursement of taxes would continue on all the invoices generated before 1 <sup>st</sup> July 2017 in consonance with the existing provisions of the ongoing contracts/supply orders, irrespective of their date of receipt.	May be referred to MoD (Fin) for clarification. Date of invoice is crucial to apply GST.
17.		All the invoices issued on or after 1 <sup>st</sup> July, 2017 should be Goods and Service Tax(GST) compliant and bear 15 digit GST Number and charge either CGST&SGST (for intra state supply) or IGST (for inter state supply).	Yes, in all the invoices issued on or after 1 <sup>st</sup> July mandatory to mentioned GSTIN number. <b><u>Section 31 (3) (C) of GST Act, 2017</u></b>
18.		No invoice generated on or after 1 <sup>st</sup> July 2017 in the following cases will be admitted and will be returned to the vendor with a copy to the concerned Directorate:-  a. Claiming VAT, Excise Duty etc. b. Not bearing GST Number	Yes, without GSTIN number and Goods and Service tax structure will not be admitted in the audit on or after 1 <sup>st</sup> July 2017.
19.		CGST&SGST or IGST charged in GST complaint invoices generated on or after 01.07.2017, will be paid based on the documentary proof of its deposition to tax authorities such as Certificate by CA/Tax Challan.	While admitting the third parties bill releasing of payment the paying authority will check all relevant documents. It is the responsibility of the supplier/ payer to deposit the tax in the Government account.  As far as deduction of TDS is concerned, it is the responsibility of DDOs to deduct and deposit in Govt. Account. Section 51 of GST Act is kept in abeyance by the Government till further orders.
20.		In all contracts concluded prior to 1 <sup>st</sup> July, 2017, with the PDC beyond 30.06.2017, wherein taxes such as service tax, VAT, and sales tax are	CGDA office's Important circular regarding effect on existing

	mentioned in sanction as well as contract, payment would not be withheld on the ground that formal amendment to the contract has not been made.	contracts No: IAW/9/9504/GST/Pt.I dated 21 <sup>st</sup> July may please be referred.
21.	There are certain contracts, where, prices have been quoted all inclusive without giving the breakup of various taxes. The amount of invoice will be restricted to the maximum value as per the existing contract.	Subsequent to implementation of GST Act w.e.f. 1 <sup>st</sup> July 2017, the GST has to be deposited by supplier in term of the tax payable on the respective items. However, vendor may be asked to give breakup of Taxes against the all inclusive invoice value and pass on the benefits of Input Tax Credit to avoid undue profit to vendors.
22.	There are certain contracts, where, contract completion date/delivery period has been extended beyond 30.06.2017 with imposition of LD, with the condition that no payment on account of increase in taxes/ new taxes will be made. Since, introduction of GST cannot be considered a new tax or increase in the tax rate and it is a replacement of all earlier taxes, full GST as claimed in the invoice without restricting it to the value of taxes applicable under earlier tax regime will be paid based on the documentary proof of its deposition to tax authorities.	Invoice raised on or after 1 <sup>st</sup> July, 2017 Supplier will deposit GST as applicable.
23.	All the task holders shall keep complete records of the invoices on which GST has been claimed/paid and a report shall be made to Addl. CDA on daily basis.	Agreed to.